PUBLISHED EVERY SATURDAY,

PRICE 5*d.*; POST FREE, 5½*d.*

THE

Justice of the Peace,

AND

COUNTY, BOROUGH, POOR LAW UNION, AND PARISH LAW RECORDER.

EDITED BY

A. MACMORRAN, Esq., M.A., Q.C., S. G. LUSHINGTON, Esq., M.A., B.C.L., AND W. W. MACKENZIE, Esq., M.A., BARRISTERS-AT-LAW.

The pages of the "Justice of the Peace" are principally devoted to matters relating to Public Health, Poor Law, Magisterial, and Parochial Business,—Reports of Cases in the Superior Courts—Practical Treatises on Acts of Parliament—

OPINIONS UPON CASES SUBMITTED TO THE EDITORS BY SUBSCRIBERS—

Digest of Reports presented to Parliament—Periodical Business to be done at Sessions—with a variety of other Matter which will be found invaluable to all interested in these subjects—also Reports of Quarter Sessions.

SUBSCRIPTION £1 4s. 6d. PER ANNUM,
INCLUDING INDEX.

RICHARD SHAW BOND, Publisher,
Office: 6, 7, 8 & 9, Fetter Lane, E.C.

Or can be had through—

BUTTERWORTH & Co.,
7, Fleet Street, E.C.

a 10122

SHAW AND SONS,

PRINTERS AND PUBLISHERS,

OF THE

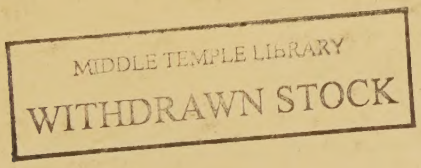
AUTHORIZED BOOKS AND FORMS

OF THE

Local Government Board.

Catalogue of Poor Law Books and other Official Forms,
Sent Post Free on Application.

6, 7, 8 & 9, FETTER LANE, LONDON, E.C.



KN181.82 LIT

THE

POOR LAW STATUTES

COMPRISING THE

STATUTES IN FORCE RELATING TO THE POOR;

AND TO

GUARDIANS, OVERSEERS, AND OTHER POOR LAW AUTHORITIES AND OFFICERS,

FROM

ELIZABETH TO END OF VICTORIA.

WITH NOTES AND CASES.

IN THREE VOLUMES.

BY

JAMES BROOKE LITTLE, B.A.

CH. CH. OXON., BARRISTER-AT-LAW, INNER TEMPLE,
EDITOR OF "ARCHBOLD'S POOR LAW," "LAW OF BURIAL," ETC.

VOL. I.

SHAW & SONS, FETTER LANE, E.C.
BUTTERWORTH & CO., BELL YARD, W.C.
Law Printers and Publishers.
1901.

BRADBURY, AGNEW, & CO. LD., PRINTERS,
LONDON AND TONBRIDGE.

PREFACE.

Since the last collection of Poor Law Statutes under the editorship of Messrs. A. and M. S. J. Macmorran was issued, more than fifty Acts of Parliament have been added to the Statute Book directly affecting the status and duties of Poor Law Authorities, or the administration of the Poor Law, or the law of Rating to the Poor Rates; other Acts have also been passed during the same period which have an indirect bearing upon matters connected with the Poor Law. Among the former may be mentioned as specimens the Lunacy Act, 1891, the Custody of Children Act, 1891, the Public Health (London) Act, 1891, the Local Government Act, 1894, the Agricultural Rates Act, 1896, the Poor Law Officers' Superannuation Acts, 1896 and 1897, the Poor Law Act, 1897, the Metropolitan Poor Act, 1898, the Poor Law Act, 1899, the London Government Act, 1899, the Poor Removal Act, 1900, and the District Councillors and Guardians (Term of Office) Act, 1900; among the latter, the Public Authorities Protection Act, 1893, the Police Disabilities Removal Act, 1893, the Elementary Education Acts, 1893 and 1899, and the Public Works Loans Act, 1897.

These and similar Acts, aided by the various Statute Law Revision Acts which have come into operation during the same period, have also amended or repealed portions of a great number of earlier Acts, so that an expenditure of time and labour is necessary to be assured that any particular enactment on poor law matters more than twenty years old is still in force, and if so, whether it has to any and what extent been modified and extended. The endeavours of the Editor have therefore been

directed towards supplying a real want in making this collection of statutes, which contains, so far as he is aware, every enactment bearing upon the subject of the poor law now in force correctly revised to date, with ample notes setting out any statutory modifications of such enactments, and all the cases decided thereon which are now of practical use. The Highway Acts alone have been excepted. These Acts, by which certain extraordinary duties are cast upon overseers, form so special a subject, are of such length and are so admirably edited in Pratt's Law of Highways, that it was deemed inadvisable to include them in full in this work, and useless to print mere isolated portions of them.

It has been found necessary to include in this work more than 350 Acts of Parliament, which may briefly be summarised as follows:—

(1.) Acts dealing solely with poor law administration or rating, such as the Poor Law Acts, Poor Relief Acts, Poor Rate and Valuation Acts, &c.

(2.) Acts dealing directly with poor law matters, but dealing also with matters of local government, such as the Local Government Acts, the Public Health (London) Act, the District Auditors Act, the London Government Act, &c.

(3.) Acts which contain specific enactments relating to the poor in juxtaposition to enactments relating to other matters, such as the Vagrant Acts, Tithe Acts, Burial Acts, Education Acts, &c.

(4.) Acts relating to procedure which is in frequent use for putting into execution the Poor Law Acts, but is not confined to poor law matters, such as the Summary Jurisdiction Acts, Justices Protection Acts, Quarter Sessions Acts, &c.

(5.) Acts imposing duties upon Poor Law officers outside the mere administration of the Poor Law, such as Electoral Registration Acts, Vaccination Acts, Births and Deaths Registration Acts, Vestries Acts, &c.

(6.) Miscellaneous Acts wholly or in part incorporated in Poor Law Acts, or to which reference has frequently

to be made in carrying Poor Law Acts into execution, such as the Public Health Acts, the Ballot Act, the Municipal Corporations Act, the Army Act, Local Loans Acts, &c.

To have printed and annotated the whole of these Acts in their entirety would have extended this work beyond reasonable limits, and have effected no useful purpose; some method of selection was therefore necessary. All Acts dealing wholly or mainly with poor law matters are printed in full and fully annotated; Acts relating to local government, as well as to the poor law, are, for the most part, printed in full, but the annotations are mainly directed to matters connected with the poor law. With regard to the other classes of Acts, it was found impracticable to pursue any strict rule, and some have been printed in full, and some in part; but the object of the Editor has been in all cases to print and, where required, fully annotate so much of every Act as seemed requisite to make completely intelligible the portions of such Act specially relating to poor law matters or likely to be found useful in dealing with matters of procedure.

Wherever it has appeared advisable either for the purposes of historical investigation, or for the full understanding of more recent statutes which have amended and repealed parts of earlier statutes, the repealed enactments have been printed in italics; where no such useful purpose was to be attained they have been omitted, but reference has been given to the repealing statute. Subject to this plan, the statutes before 1876 have, with one or two exceptions, been printed from the Revised Statutes with such modifications as were rendered necessary by amendments or repeals subsequent to the date of the last edition of those statutes. The advantage of printing from this edition lies in the great improvement made by it in the marginal notes to the sections of earlier Acts.

The Case law upon the subject has been thoroughly sifted; much of it relating to such matters as settlement, audit, appeals, &c., has become obsolete, and the

work has not been incumbered by its insertion. Except where obviously unnecessary, the facts of the cited cases are stated, as well as the decisions thereon; full reference is given to the various series of reports in which such cases are to be found; and where the notes are long, reference to the subject-matter of such notes is facilitated by the addition of side-notes.

The Editor trusts that the result of his endeavours will be to supply a work which, until the law on the subject is codified, may serve as a complete book of reference upon all questions arising upon the Statutes relating to or connected with the Poor Law.

The indexes of cases and subjects have been carefully prepared by Mr. Rayner Goddard, Barrister-at-law, to whom the Editor desires to make his grateful acknowledgments for the assistance thereby rendered.

J. B. L.

1, Tanfield Court, Temple,
February, 1901.

TABLE OF STATUTES

CONTAINED IN VOL. I.

		PAGE
43 Eliz. c. 2	Poor Relief Act, 1601	1
13 & 14 Car. 2, c. 12	Poor Relief Act, 1662	121
1 W. & M. Sess. 1, c. 18	Exemption of Ministers from Serving Parochial Offices	168
3 W. & M. c. 11	Poor Relief Act, 1691	169
6 & 7 W. & M. c. 4	Apothecaries	184
8 & 9 Will. 3, c. 30	Poor, Removal	185
5 Geo. 1, c. 8	Poor Relief (Deserted Wives and Children) Act, 1718	191
9 Geo. 1, c. 7	Poor Relief Act, 1722	193
5 Geo. 2, c. 19	Quarter Sessions Appeal Act, 1731	205
16 Geo. 2, c. 18	Justices Jurisdiction Act, 1742	208
17 Geo. 2, c. 3	Poor Rate Act, 1743	209
17 Geo. 2, c. 37	Land Drainage (Rating) Act, 1743	212
17 Geo. 2, c. 38	Poor Relief Act, 1743	215
24 Geo. 2, c. 40	Sale of Spirits Act, 1750	229
25 Geo. 2, c. 36	Disorderly Houses Act, 1751	233
26 Geo. 2, c. 27	Justices Act	238
27 Geo. 2, c. 3	Offenders (Conveyance) Act, 1754	239
31 Geo. 2, c. 11	Apprentices (Settlement) Act, 1757	240
7 Geo. 3, c. 21	Justices Quorum Act, 1766	241
9 Geo. 3, c. 37	Poor Relief Act, 1769	242
13 Geo. 3, c. 82	Lying-in-Hospitals Act, 1773	243
18 Geo. 3, c. 47	Parish Apprentices Act, 1778	249
30 Geo. 3, c. 49	Workhouses Act, 1790	250
32 Geo. 3, c. 57	Parish Apprentices Act, 1792	253
33 Geo. 3, c. 55	Parish Officers Act, 1793	262
35 Geo. 3, c. 101	Poor Removal Act, 1795	264
36 Geo. 3, c. 10	Poor Relief Act, 1795	273
41 Geo. 3, c. 23	Poor Rate Act, 1801	275
42 Geo. 3, c. 46	Parish Apprentices Act, 1802	283
48 Geo. 3, c. 55	House Tax	287
48 Geo. 3, c. 75	Burial of Drowned Persons Act, 1808	287
49 Geo. 3, c. 124	Poor (Settlement and Removal) Act, 1809	292

		PAGE
50 Geo. 3, c. 110	Poor Rate Act, 1810	295
52 Geo. 3, c. 155	Places of Religious Worship Act, 1812	299
54 Geo. 3, c. 91	Poor Law (Overseers) Act, 1814	301
54 Geo. 3, c. 170	Poor Relief Act, 1814	301
55 Geo. 3, c. 137	Poor Relief Act, 1815	307
56 Geo. 3, c. 129	Workhouse Act, 1816	313
56 Geo. 3, c. 139	Parish Apprentices Act, 1816	314
57 Geo. 3. c. 93	Distress Costs Act, 1817	320
58 Geo. 3, c. 69	Vestries Act, 1818	323
58 Geo. 3, c. 70	Disorderly Houses Act, 1818	331
59 Geo. 3, c. 12	Poor Relief Act, 1819	332
59 Geo. 3, c. 85	Vestries Act, 1819	352
59 Geo. 3, c. 95	Poor Relief (No. 2) Act, 1819	353
1 Geo. 4, c. 36	Poor Law (Appeal) Act, 1820	354
3 Geo. 4, c. 126, ss. 32, 51	Turnpike Roads Act, 1822	355
5 Geo. 3, c. 83	Vagrancy Act, 1824	356
6 Geo. 4, c. 50	Juries Act, 1825	366
6 Geo. 4, c. 57	Poor Relief (Settlement) Act, 1825	371
7 Geo. 4, c. 64	Criminal Law Act, 1826	372
7 & 8 Geo. 4, c. 17	Distress Costs Act, 1827	375
10 Geo. 4, c. 44	Metropolitan Police Act, 1829	377
1 Will. 4, c. 18	Poor Relief (Settlement) Act, 1831	394
1 & 2 Will. 4, c. 37, s. 7	Truck Act, 1831	398
1 & 2 Will. 4, c. 42	Poor Relief Act, 1831	400
1 & 2 Will. 4, c. 59	Crown Land Allotments Act, 1831	402
1 & 2 Will. 4, c. 60	Vestries Act, 1831	403
2 Will. 4, c. 42	Allotments Act, 1832	404
2 Will. 4. c. 45	Representation of the People Act, 1832	419
3 & 4 Will. 4, c. 30	Poor Rate Exemption Act, 1833	435
3 & 4 Will. 4, c. 63	Apprentices Act, 1833	436
4 & 5 Will. 4, c. 76	Poor Law Amendment Act, 1834	438
5 & 6 Will. 4, c. 69	Union and Parish Property Act, 1835	503
6 & 7 Will. 4, c. 71, ss. 57, 64, 69, 90	Tithe Act, 1836	513
6 & 7 Will. 4, c. 86	Births and Deaths Registration Act, 1836	514
6 & 7 Will. 4, c. 96	Parochial Assessment Act, 1836	527

GENERAL ORDERS

REFERRED TO IN VOL. I.

		PAGE
December 21st, 1844 ...	Outdoor Relief Prohibitory.....	470
July 24th, 1847 (Gen. Cons. Order)—		
	contracts by guardians	468
	parish officers.....	463, 465
	parish apprentices	315, 316
December 14th, 1852.....	Outdoor Relief Prohibitory.....	470
April 7th, 1857	form of order for payments by guardians upon treasurer	466
January 14th, 1867.....	accounts and books to be kept by master of workhouse.....	473
August 19th, 1867	appointment of ministers of religion for workhouses	464
February 2nd, 1872	security by parish officers	465
May 26th, 1877	powers of secretary and assistant secretaries of Local Government Board	497
December 31st, 1877.....	contracts by guardian	468
January 9th, 1878	payment of school fees by guardians	475
February 15th, 1898.....	parish apprentices	315

TABLE OF CASES.

VOL. I.

PAGE

—— *v.* Armstrong 29
Abel *v.* Lee.....308, 429
A.-G. *v.* Croydon 326
—— *v.* Lewin..... 345
—— *v.* Merthyr Tydvil Union 11, 470, 471
—— *v.* Mutual Tontine Westminster Chambers Association 20
—— *v.* Wilkinson 326
Agnew *v.* Reilly..... 426
Ainsworth *v.* Creeke 426
Alderman *v.* Neate 345
Alderton *v.* Jellingtoe 145
Allan *v.* Liverpool..... 20, 23, 54
Allason *v.* Stark..... 345
Allchurch *v.* Hendon Union 19
Allison *v.* Monkwearmouth ... 536
Amherst (Lord) *v.* Somers (Lord).....31, 32
Angers *v.* Keen 339
Annesley, *Ex parte* 344
Anonymous case (1 Bott., 6th ed. 415) 105
—— (2 Salk. 473)..... 147
—— (2 Salk. 527)..... 47
—— (3 Salk. 525)..... 216
Appleton *v.* Morrey 349
Armstrong *v.* Bowdridge 469
Arrowsmith *v.* Dickenson..... 114
Ashbrittle *v.* Wyley..... 130, 131
Ashford, *Ex parte* 204, 485
Asprell *v.* Lancashire JJ.....204, 485
Atcham Union *v.* Birmingham Union 269
Austin *v.* Bethnal Green Union 465, 469
Aye *v.* Smallpiece 33

Badger *v.* South Yorkshire Railway and River Dun Navigation 45

PAGE

Baker *v.* Locke 373
—— *v.* Monmouth (Town Clerk of) 430
—— *v.* Wood 327
Bletchington *v.* Peyton 108
Blunt *v.* Harwood 324
Blyth Harbour Commissioners *v.* Tynemouth..... 55, 91, 95
Bodenham *v.* St. Andrew's, Worcester 135, 481
Bodmin *v.* Warlington 156
Booth *v.* St. Martin's, Worcester 436
Boroughfen *v.* St. John's 105
Boyse, *In re*, Crofton *v.* Crofton 466
Bradshaw *v.* Murphy..... 325
Brecon Market Co. *v.* St. Mary's, Brecon 96
Bridewell *v.* Clerkenwell 153
Briggs, *Ex parte*..... 213, 217
Bristol *v.* Wait 225
Bristol Poor (Governors of) *v.* Wait..... 25
Brown *v.* Granville (Lord) ... 76
Bruce or Bath Navigation Co. *v.* Willis 45
Brushfield *v.* Baynton 498
Bamford *v.* Iles 339
Banbury Union *v.* Robinson 491
Bancroft *v.* Mitchell 113
Barber *v.* Waite..... 312
Barton *v.* Hulme 178
Bath River Navigation Co. *v.* Willis 45
Beatson *v.* Seisson..... 151
Bedford (Duke of) *v.* St. Paul's, Covent Garden 96
Bell *v.* Crane 81
Bennett *v.* Edwards..... 211, 212
Berkhampstead *v.* St. Mary, Northchurch..... 132, 136

	PAGE
Bevan *v.* M'Mahon	114
Bidwell Bros., *Re*	326
Binney, *Ex parte*	107
Birmingham Canal Co. *v.* Birmingham	43
Bishopswearmouth *v.* Durham (Earl of)	44, 55, 95
Blackett *v.* Blizzard	324
Blackpool Pier Co. *v.* Fylde	56
Burgess *v.* Boetefleur	236
Burnaby *v.* Barsby	345, 504
Burrows *v.* Brentford Union	542
Bursledon Overseers *v.* Clarke	17
Burton-on-Trent *v.* Egginton	27
Burton-on-Trent Corporation *v.* Egginton Churchwardens, &c.	83
Burton-on-Trent (Mayor of) *v.* Egginton Churchwardens	530
Burton-on-Trent Corporation *v.* Egginton Overseers	84
Burton-on-Trent (Mayor of) *v.* Burton Union	530
Bury *v.* Arundel	151
Bushell *v.* Luckett	425
Bute (Earl of) *v.* Grindall	32
Byron (Lady), *Ex parte*	505
Calverley *v.* Bradford	131
Cambridge (Mayor of) *v.* Dennis	340
Cambridge Union *v.* Parr	359, 360
Campbell *v.* Maund	326, 327
Carpenter *v.* Mason	495
Cartwright *v.* Sulcoates Union	536
Caswell *v.* Wolverhampton	96
Caunter *v.* Addams	336, 425
Cautrell *v.* Windsor Union	445
Charlbury *v.* Chipping Faringdon	144, 145
Charlton *v.* Alway	16
Chatfield *v.* Ruston	29, 88
Chelsea Waterworks Co. *v.* Putney	99
Chertsey Union *v.* Surrey (Clerk of the Peace)	134
Chidley *v.* West Ham	60
Chinham *v.* Preston	136
Chippendale *v.* Hirst	236
Chorlton-on-Medlock Overseers *v.* Charlton Union	82
Cirencester *v.* Colne St. Aldwin's	146
City of Westminster *v.* Gerrard	113, 114
Clark *v.* Alderbury	62
—— *v.* Alderbury Union	536
—— *v.* Fisherton Angar	62, 535
—— *v.* Jostin	11, 495
—— *v.* Rice	236
Clarke *v.* Cuckfield Union	468
Clerkenwell *v.* Bridewell	177
Clifton *v.* Churchman	166
—— *v.* Liverpool	143
Clive *v.* Foy Overseers	531
Clyde Navigation Trustees *v.* Adamson	51
Coghlan *v.* Callaghan	175
Colchester Union *v.* May	466, 500
Coleman *v.* Birmingham Overseers	114
Collumpton *v.* Brighton	269
Coltness Iron Co. *v.* Black	62
Compagnie Française de Télégraph de Paris in New York *v.* Penzance Union	85
Congreve *v.* Upton	49
Cook *v.* North Metropolitan Tramways Co.	399
Coomber *v.* Berkshire JJ.	34
Cooper *v.* Martin	113, 114
Cory *v.* Bristow	21
Cowen *v.* Kingston-on-Hull (Town Clerk of)	430
Crawshay *v.* Morgan	61, 65
Crease *v.* Sawle	64
Cripplegate *v.* St. Saviour's	132
Cullompton *v.* Brighton	490
Danby *v.* Watson	106, 306
Davies *v.* Harvey	312
Davis, *Ex parte*	175
De la Beche *v.* St. James, Westminster	36
Denaby and Cadeby Colliery Companies *v.* Doncaster Union Assessment Committee	62, 537
Dewsbury Waterworks Board *v.* Penistone Union	101, 102
Dix *v.* Kent	430
Dobson *v.* Jones	17

PAGE
Dobson *v.* Fussey 323
Dodds *v.* South Shields Assessment Committee 535
Doe *d.* Bowley *v.* Barnes 344
—— *d.* Edney *v.* Benham..... 345
—— *d.* Grundy *v.* Clarke..... 343
—— *d.* Higgs *v.* Terry 344
—— *d.* Jackson *v.* Hiley 345
—— *d.* Landsell *v.* Gower ... 342
—— *d.* Norton *v.* Webster 308, 507
—— *d.* Weeks *v.* Roe..... 344
Dolting *v.* Stokelaine 166
Doncaster Union *v.* Manchester, Sheffield and Lincolnshire Rail. Co..... 16
Downton Overseers, *Ex parte* 115, 182
Draper *v.* Glenfield 113
Dunn *v.* Mashiter 305
Dunsfold *v.* Dunsfold Windsborough Green 137
Durham County Council *v.* Chesterfield-le-Street 38, 81
Dyke *v.* St. Pancras Union 465, 469

East Dean *v.* Everett 106, 226
Eastern Counties Rail. Co. *v.* Moulton 540
East London Waterworks Co. *v.* Leyton Sewer Authority 103
Edwards *v.* Lloyd 430
—— *v.* St. Olaves Union..... 87
Egham Burial Board, *Re*..... 327
Eglium *v.* Hartley Witney ... 151
Eldridge *v.* Payne..... 225
Electric Telegraph Co. *v.* Salford 84
Elliott *v.* Totnes Union 115
Elsing *v.* Hereford..... 134
Elt *v.* St. Mary's, Islington... 328
Emden *v.* Titchmarsh 13
Erewash Canal Co. *v.* Eastwood 41
Esdaile *v.* City of London ... 87
Essenden (Mayor of) *v.* Blackwood 79
Evelin *v.* Rentcombe..... 124
Everton *v.* South Stoneham... 173
Exeter Union *v.* St. Thomas' Union 173
Eynsham, *Re*..... 328

PAGE
Farnham Flint, Gravel and Sand Co. *v.* Farnham Union 531
Faulkner *v.* Elger 326, 328
Falmouth Harbour Case 56
Fisher *v.* Begrez..... 37
Flanagan *v.* Bishopswearmouth 357
Fourth City Mutual Building Society *v.* East Ham ... 107, 108
Fox *v.* Oakley 349
Franks *v.* Edwards 339
Freeman *v.* Read 489
Friend *v.* Tolleshunt Knights 14, 90
Fulham *v.* Thanet Union. 303

Gainsborough *v.* Worksop 171, 272
Gambier *v.* Lydford 36
Gamble, *In re*..... 113
Garland *v.* Ahrbeck 236
Gifford *v.* Chard Union 60
Gill, *Ex parte*..... 175
Glamorganshire Canal Co. *v.* St. Mary, Cardiff 40
Goodright *v.* Moss ... 133, 136, 138
Gouldsworth *v.* Knights 344
Grand Junction Canal Co. *v.* Hemel Hempstead and Kings Langley 41
Grant *v.* Oxford Local Board 22
Gray *v.* Cookson..... 250
Griffin *v.* Ellis..... 327
Grimsby Rail. Co. *v.* Caistor 69, 70
Groome *v.* Forester 218
Great Eastern Rail. Co. *v.* Harwich Commissioners... 77
—— *v.* Haughley 69, 72
Great Western Rail. Co. *v.* Badgworth..... 78
—— *v.* Melksham 75
—— *v.* Pontypridd..... 73
Great Yarmouth *v.* Clerk of the Peace of London..... 137
Greenock Police Trustees *v.* Shaws Water Co..... 102
Greig *v.* University of Edinburgh 31, 97
Greenhow *v.* Parker 312
Groves *v.* Hemhill 90
Guest *v.* East Dean 15, 63

Hackett *v.* Long Bennington 86

	PAGE
Hackney and Lamberhurst Tithe Commutation Rent Charges, *Re*	539
Haigh *v.* North Brierly Union	468
Halifax Union *v.* Wheelwright	466, 500
Hall *v.* Derby Sanitary Authority	48
Hampton *v.* Lammas	225
—— *v.* Middlesex Waterworks Co.	58
—— *v.* West Middlesex Waterworks Co.	100
Hare *v.* Putney Overseers	27, 93
Harper *v.* Carr	108
Harrison's Case	429
Harrow *v.* Edgware	126
—— *v.* Ryslip	145
Harter *v.* Salford	61
—— *v.* Salford Overseers	531
Hastings Union *v.* St. James, Clerkenwell	395
Hayward *v.* Brinkworth	531
Headington Union *v.* Ipswich Union	135, 482
Heath *v.* Heape	359
Henderson *v.* Sherborne	312
Henley *v.* Chesham	135
Herton *v.* Walsall Union	528
Hicks *v.* Dunstable	17
Hill *v.* Thorncroft	269, 490
Hilton *v.* Paule	8
Hodgson *v.* Carlisle Local Board	31
Holland *v.* Lea	339
Holy Trinity *v.* Shoreditch	179
Holywell Union *v.* Halkyn Drainage Co.	20, 21, 104
Honeybone *v.* Hambridge	429
Hopkins *v.* De Robeck	37
Horbury Coal Co., *Re*	326
Horley *v.* Rogers	361
Horton *v.* Walsall Union	278
Hosegoods *v.* Camps	358
How *v.* Keech	13
Hoyle and Jackson *v.* Oldham	61
Hughes *v.* Chatham Overseers	17
Hull Docks Co. *v.* Sulcoates Union	41
Hurrell *v.* Wink	106, 306
Hutchins *v.* Chambers	107
Ilkley Hospital *v.* Ilkley	47
Inman *v.* West Derby Union and Kirkdale	54
Ipswich Dock Commissioners *v.* St. Peter's, Ipswich	55, 56
Jackson *v.* Hill & Co.	399
Jacquet *v.* Lewis	324
Jay *v.* Hammon	32
Jeffries, *Ex parte*	7
Jenkins' Case	115
Jephson *v.* Barber	236
Johnson's Case	149
Jones *v.* Bubb	426
—— *v.* Mersey Dock Co.	24, 26, 30, 37, 44, 47, 48, 51
Joyce, *Ex parte*	328
Kemp's Case	429
Kerr *v.* Wilkie	86, 324
Kerwin *v.* Hines	236
Keynsham Union *v.* Bedminster Union	474
Kimbolton, *Ex parte*	294
Kingsbridge Union *v.* East Stonehouse	137
Kirby *v.* Bannister	13
Kirk's Case	429
Kittoe *v.* Liskeard Union	22, 63
Kittow *v.* Liskeard Union	65
Kitts *v.* Liskeard	16
Lacon *v.* Higgins	138
Laing *v.* Bishopswearmouth	60
Lamb *v.* Grieves	326
Lambeth *v.* London County Council	528, 537
Lamprell *v.* Billericay Union	468
Lancashire JJ. *v.* Cheetham	35
—— *v.* Shelford	31
—— *v.* Stretford	35
Lancashire Telephone Co. *v.* Manchester	84
Lane *v.* Cobham	167
Laughlin *v.* Saffron Hill Overseers	81
Law *v.* Hodson	469
Lawes *v.* Arsley	221
Lawrence *v.* Todd	399
—— *v.* Tolleshunt Knights	90

PAGE

Lee *v.* Cooke 107
Leeds, Bradford and Halifax Rail. Co. *v.* Armley 77
Leicester (Mayor, &c. of) *v.* Beaumont Leys Churchwardens 84
Leicester Waterworks Co. *v.* Cropston..... 278
Leigh *v.* Taylor 13
Leith Harbour Commissioners *v.* Poor Inspectors..... 31
Leith Harbour and Docks Commissioners *v.* Inspector of the Poor 51, 278
Lester's Case 216
Lewis *v.* Swansea..... 55, 95
Licensed Victuallers' Society *v.* St. Mary, Lambeth 82
Lincoln (Mayor, &c.) *v.* Holmes Common 80
Little Bitham *v.* Somerby ... 145
Liverpool Corporation *v.* Llanfyllin Union 102
Liverpool Gas Co. *v.* Everton 545
Liverpool (Mayor of) *v.* Wavertree 100
Liverpool (Mayor of) *v.* West Derby 100
Liverpool United Gas Co. *v.* Everton..... 221, 222
Llanelly Union *v.* Neath 474
Llanfyllyn *v.* Evans.....338, 339
Lobban *v.* Cook 14
London County Council *v.* Erith ... 25, 26, 27, 37, 38, 83, 95, 101, 529, 530, 534, 538
London County Council *v.* Lambeth 10, 27, 38
London (Mayor of) *v.* Greenwich Union Assessment Committee 96
London and North Western Rail. Co. *v.* Bedford 278
—— *v.* Buckmaster 16, 24, 77
—— *v.* Cannock 73
—— *v.* Harborne 70
—— *v.* Irthingborough 73
—— *v.* Kings Norton 70
—— *v.* Wigan 69, 70
London Tramways Co. *v.* Lambeth..... 97
Lowndes *v.* Horn 86

PAGE

Macartney *v.* Garbutt 37
MacHarg *v.* Stoke-upon-Trent 35
McCannon *v.* Sinclair 44, 56
Magarill *v.* Overseers of Whitehaven 429
Maidstone Union *v.* Holborn Union 137
Malling *v.* Graham 336, 339
Malkin *v.* Vickerstaff 13
Manchester Overseers *v.* Headlam 16, 108
Manchester Overseers *v.* St. Pancras 135
Manchester, Sheffield and Lincolnshire Rail. Co. *v.* Doncaster 20
Manchester, Sheffield and Lincolnshire Rail. Co. *v.* Doncaster Union 45
Manchester, Sheffield and Lincolnshire Rail. Co. *v.* Kingston-on-Hull 56
Mann *v.* Danvers 358
Mansfield Union *v.* Wright ... 340
Margate Pier Proprietors *v.* Hanam 106
Martin *v.* West Derby Union 35
Mashiter *v.* Dunn 429
Massey *v.* Knowles 13
Maund *v.* Mason 114
Mawby, *Ex parte* 328
Mawley *v.* Barbet 324, 325
Medway Union *v.* Bedminster Union 136
Medwin *v.* Streeter 426
Melliss *v.* Shirley Local Board 469
Mersey Docks and Harbour Board *v.* Birkenhead ... 18, 533, 534, 537
Mersey Docks *v.* Liverpool ... 52, 534, 535, 539
Mersey Docks and Harbour Board *v.* Liverpool..... 53
Mersey Docks and Harbour Board *v.* Llaneilan 94, 95
Mersey Docks Co. *v.* Overseers of Birkenhead..... 52
Merthyr Tydvil Local Board *v.* Merthyr Tydvil Assessment Committee 101
Metropolitan Board of Works *v.* West Ham 83

PAGE

Middlesex County Council *v.* St. George's, Hanover Square 34
Middleton Union *v.* McDonnell 18
Midland Rail. Co. *v.* Badgworth 78
Midland Rail. Co. *v.* Birmingham 76
Midland Rail. Co. *v.* Edmonton 489
Mildmay *v.* Wimbledon Overseers 34
Millward *v.* Caffin 16, 109
Mitchell *v.* Fordham.....29, 88
—— *v.* Torrington Union..... 357
Mogg *v.* Clark 326
—— *v.* Yatton Overseers.....15, 22
Molyneaux, *Ex parte* 467
Morgan *v.* London General Omnibus Co. 399
Morris *v.* Edmunds 357
—— *v.* Miller 138
Morrish *v.* Hall 24
—— *v.* St. Mary Abbotts, Kensington..... 24
Morton *v.* Brammer 107
Mynton *v.* Stoney Stratford... 145
Muldowney *v.* Malcomson ... 426
Mursley *v.* Grandborough...127, 130

Newbold *v.* Coltman..... 498
Newmarket Rail. Co. *v.* St. Andrew's-the-Less, Cambridge 71
New Ross Union *v.* Byrne ... 16
New Shoreham Harbour Commissioners *v.* Lancing 55, 91
Newtown and Llanidloes Union *v.* Pryce Jones 546
New York Telegraph Co. *v.* Penzance Union..... 84
Nicholson *v.* Bradfield Union 408
—— *v.* Holborn Union..... 34
Nicholas *v.* Walter..... 8
Nightingale *v.* Marshall 331
North Eastern Rail. Co. *v.* Leadgate Local Board 66
North Eastern Rail. Co. *v.* York Union 528
North Western Rail. Co. *v.* Whinray 339

PAGE

Norwich (Mayor of) *v.* Berry 7
Nottingham Union (Guardians of) *v.* Tomlinson...115, 136
Novello *v.* Toogood 37

Oldroyd *v.* Hunslet Union ... 5, 39
Owens College *v.* Chorlton-upon-Medlock..... 529
Oxford University and City of Oxford Poor Rate, *Re*... 97
Oxford University (Chancellor of) *v.* Oxford (Mayor of) 97

Paddington Charities, *In re*... 345
Paine *v.* Strand Union.....468, 543
Paris and New York Telegraph Co. or Compagnie Française *v.* Penzance 22
Parker *v.* Edwards 212
Parkinson *v.* Potter 37
Pancras *v.* Rumbold 152
Payne *v.* Esdaile 87
Pearson *v.* Holborn Union ... 32
Peart *v.* Westgarth 167
Peebles *v.* Oswaldtwistle Urban District Council ... 266
Pember *v.* Evans 4
Pembroke *v.* Wye 16
Penney *v.* Slade..... 2, 10
Peppercorn *v.* Hoffman 107
Percy *v.* Ashford Union 96
Peterborough Corporation *v.* Stamford Union..... 101
Peters *v.* Cowie 359, 360
Peto *v.* West Ham..... 52
Phillips *v.* Foxall 340
Pimlico Tramway Co. *v.* Greenwich Union 96
Points *v.* Attwood 337
Pope *v.* Backhouse..... 312
Portland's (Duke of) Case ... 31
Portsea Island Union *v.* Whillier 340
Priestley *v.* Watson 278
Proctor *v.* Mainwaring..... 312
Pudding Norton, *Re*..... 3, 6
Pybus *v.* Gibbs 339

Rawlence *v.* Hursley Union... 18
Rann *v.* Picking..... 87

PAGE

Rand *v.* Green 324
Rawlins *v.* Goldfrap 114
Reeve *v.* Eastwood..... 358
—— *v.* Grates..... 359
Regent's Canal Co. *v.* St. Pancras 43
Reg. *v.* Albany Park Cemetery Co. 47
—— *v.* Accason 515
—— *v.* Acton 154
—— *v.* All Saints, Derby..... 133
—— *v.* All Saints, Newcastle-upon-Tyne.....150, 336
—— *v.* Alnwick Chamberlains 79
—— *v.* Aylesford Union 62
—— *v.* Bangor..... 498, 543
—— *v.* Baptist Missionary Society 49
—— *v.* Barron... ..... 324, 330
—— *v.* Barton-upon-Irwell... 178
—— *v.* Bedford..... 199
—— *v.* Bedford Assessment Committee 73
—— *v.* Bedford (Duke of) ... 96
—— *v.* Bedminster Union...91, 277
—— *v.* Berwick..... 203
—— *v.* Berwick Assessment Committee 55, 95
—— *v.* Best 324
—— *v.* Biggleswade Union... 222
—— *v.* Bilston 538
—— *v.* Birkenhead Dock Trustees..... 50
—— *v.* Birmingham (15 L. J. M. C. 65) 138
—— *v.* Birmingham (44 L. J. M. C. 48) 156
—— *v.* Birmingham (7 A. & E. 254) 326
—— *v.* Birmingham Gas Light and Coke Co. 56
—— *v.* Birmingham and Staffordshire Gas Co. 57, 59
—— *v.* Birmingham Waterworks Co. 103
—— *v.* Blackfriars Bridge Co. 93
—— *v.* Blenkinsop 227
—— *v.* Bolingbroke..... 208, 209
—— *v.* Bolton 349
—— *v.* Boyle 107

PAGE

Reg. *v.* Bradford 143
—— *v.* Bradford, Wilts. 266
—— *v.* Bradshaw 108
—— *v.* Brain 325
—— *v.* Braintree 464
—— *v.* Braintree Union 439
—— *v.* Brecknockshire (42 L. J. M. C. 135) 156
—— *v.* Brecknockshire JJ. (7 B. & S. 902)..... 349
—— *v.* Bretton 33
—— *v.* Bridgehouse 35
—— *v.* Bridgewater...220, 485, 354
—— *v.* Brighton 136, 138
—— *v.* Brighton Gas and Coke Co. 57
—— *v.* Brighthelmstone...144, 152, 172
—— *v.* Brinjes 60
—— *v.* Bristol Dock Co. 30, 50
—— *v.* British Orphan Asylum 48
—— *v.* Brixham 483
—— *v.* Brown 520
—— *v.* Buckingham JJ. (24 L. J. M. C. 15, *n.*) ... 203
—— *v.* Burgate 129
—— *v.* Caerwys..... 144
—— *v.* Calder and Hebble Navigation Co..... 41
—— *v.* Cambridge 209
—— *v.* Cambridge Gas Co. 57, 98
—— *v.* Cambridgeshire JJ. (19 L. J. M. C. 131) 281
—— *v.* Capel 89, 486
—— *v.* Cardiganshire JJ. (1 H. & W. 274) 108
—— *v.* Carlton 201
—— *v.* Carnarvonshire JJ. (11 L. J. M. C. 3) 143, 486
—— *v.* Carpenter..... 338, 494
—— *v.* Casterton 148
—— *v.* Castleton 531
—— *v.* Caswell 96
—— *v.* Chantrell 157
—— *v.* Charles 236
—— *v.* Chayford 270
—— *v.* Chedgrave (No. 1) (19 L. J. M. C. 54) 490
—— *v.* Chedgrave (No. 2) (20 L. J. M. C. 33) 270, 293, 490

PAGE

Reg. *v.* Chelsea Waterworks Co. 45
—— *v.* Cheltenham 209
—— *v.* Chester JJ. (4 Jur. 484) 3, 8
—— *v.* Christchurch 329, 330, 337
—— *v.* Clayton 8
—— *v.* Clifton 143
—— *v.* Colbeck.....149, 156, 486
—— *v.* Cooper 153, 327
—— *v.* Costock 474
—— *v.* Cousins 5
—— *v.* Crease 64
—— *v.* Crondall 143
—— *v.* Crossley..... 466
—— *v.* Crowan 269
—— *v.* Croydon..... 48
—— *v.* Cuckfield 140, 141
—— *v.* Cuddington 131
—— *v.* Curtis..... 11
—— *v.* Daubney 4
—— *v.* Daventry 217
—— *v.* De Grey 223, 280
—— *v.* Derby JJ. (28 L. T. 89) 96
—— *v.* Derbyshire JJ. (6 A. & E. 885)..... 142, 486
—— *v.* Derbyshire JJ. (1 W. W. & H. 323) 486
—— *v.* Devon JJ. (3 N. S. C. 96)..... 545
—— *v.* Dodd 538
—— *v.* Dolgelly..... 465
—— *v.* Dowlais Iron Co. 54
—— *v.* D'Oyly 325, 326, 327
—— *v.* Dunboyne (Lord) ... 523
—— *v.* Durham (Earl of) 44, 55, 95
—— *v.* Durham JJ. (4 N. S. C. 437) 448
—— *v.* Ealing 486
—— *v.* Eastern Rail. Co..... 540
—— *v.* Eastern Counties Rail. Co. 72, 73, 75, 530
—— *v.* Eaton 221, 228
—— *v.* Edwards 288
—— *v.* Everist 62, 532
—— *v.* Eyre (No. 1)..... 281
—— *v.* Eyre (No. 2)..... 281
—— *v.* Fayle..... 22, 65
—— *v.* Feowen 510
—— *v.* Fletton 76, 531
—— *v.* Flitton 19
—— *v.* Fouch 220, 224

PAGE

Reg. *v.* Fordham 542
—— *v.* Foster 33
—— *v.* Frend..... 14
—— *v.* Fulbourn 47
—— *v.* Fuller..... 33
—— *v.* Gainsborough Union.. 538
—— *v.* Glamorganshire Canal Co. or Glamorganshire Canal Co. *v.* St. Mary, Cardiff... 40
—— *v.* Gloucestershire JJ. (24 J. P. 39)..... 306
—— *v.* Godolphin (Lord) ... 541
—— *v.* Gomershal..... 484
—— *v.* Goodchild..89, 528, 538, 539
—— *v.* Goole 327
—— *v.* Graham 327
—— *v.* Grand Junction Canal Co. 40
—— *v.* Grand Junction Rail. Co.....67, 78, 534
—— *v.* Great Bolton 146, 266
—— *v.* Great Western Rail. Co. (15 L. J. M. C. 80) 68
—— *v.* Great Western Rail. Co. (21 L. J. M. C. 84) 69, 72
—— *v.* Great Western Rail. Co. (1 N. S. C. 301) 210
—— *v.* Greene 335, 464, 498
—— *v.* Groves 90
—— *v.* Guelder..... 338, 495
—— *v.* Guest..... 59
—— *v.* Halifax 130, 148, 150
—— *v.* Hall-Dare 538
—— *v.* Halstead 60
—— *v.* Hammersmith (Vicar of) 327
—— *v.* Hammond..... 545
—— *v.* Handsley 108
—— *v.* Harely 149
—— *v.* Hartington 144
—— *v.* Haslam 60
—— *v.* Haslehurst 464, 500
—— *v.* Haslingfield 370
—— *v.* Headlam 108
—— *v.* Heath..... 17
—— *v.* Hedger 327
—— *v.* Hellingley..... 269
—— *v.* Hendon 480

	PAGE
Reg. *v.* Herefordshire JJ. (28 L. T. 286)	281
—— *v.* Higginson	271
—— *v.* High Bickington	266
—— *v.* Hillingdon	327
—— *v.* Hockworthy	397
—— *v.* Holme Reservoirs	102
—— *v.* Hoole	10
—— *v.* How	4, 327
—— *v.* Hull Dock Co.	51, 55
—— *v.* Hulme	172, 479
—— *v.* Hunnington	154
—— *v.* Hunt	464
—— *v.* Hurstbourne Tarrant	543
—— *v.* Husthwaite	479
—— *v.* Ireland	429, 473
—— *v.* Jay	32
—— *v.* Jefferson	108
—— *v.* Kendal	487, 488
—— *v.* Kensington (12 A. & E. 824)	47
—— *v.* Kent JJ. (16 L. T. (N.S.) 673)	226
—— *v.* Kent JJ. (80 L. T. 622)	223, 280
—— *v.* Kent JJ. (40 L. J. M. C. 76)	282
—— *v.* Kentmere	97, 98
—— *v.* Keynsham	177
—— *v.* Kingston	139
—— *v.* Kingston-on-Thames	108
—— *v.* Kingston-on-Thames JJ.	277, 547
—— *v.* Kingston-on-Hull Dock Co.	95
—— *v.* Kirby	326
—— *v.* Knaresborough	132
—— *v.* Lamb	89
—— *v.* Lamberhurst or Hawkins	90
—— *v.* Lambert	277
—— *v.* Lancashire JJ. (34 L. T. 124)	223
—— *v.* Lancashire JJ. (M. S. T. 1840)	10
—— *v.* Lancashire JJ., Lancashire JJ. *v.* Stretford (E. B. & E. 225)	35
—— *v.* Lancashire JJ. (10 L. J. M. C. 138)	354
Reg. *v.* Lancashire JJ. (10 L. J. M. C. 138)	190
—— *v.* Lancashire JJ. (17 L. J. M. C. 45)	203
—— *v.* Lancashire JJ. (19 L. J. M. C. 199)	545
—— *v.* Lancashire JJ. (29 L. J. M. C. 244)	10
—— *v.* Lancaster	336
—— *v.* Lankley	146
—— *v.* Lapley and Penkbridge	44
—— *v.* Latchford	207
—— *v.* Lee	58, 60
—— *v.* Leith	56
—— *v.* Leominster	204, 484
—— *v.* Licensed Victuallers' Society	82
—— *v.* Little Marlow	143
—— *v.* Liverpool	26
—— *v.* Liverpool (Recorder of)	190, 203, 221, 222
—— *v.* Llanelchiel	268
—— *v.* Llanfillo JJ. (15 L. T. (N.S.) 277)	349
—— *v.* Llangsaintfraid Glan Conway	480
—— *v.* Llantrissant	73
—— *v.* Local Government Board	452
—— *v.* London, Brighton and South Coast Rail. Co. (20 L. J. M. C. 125)	68, 71
—— *v.* London, Brighton and South Coast Rail. Co. (15 Q. B. 513)	531, 539
—— *v.* London JJ. ([1899] 1 Q. B. 532)	112, 226
—— *v.* London (Lord Mayor of)	109
—— *v.* London and North Western Rail. Co. (L. R. 9 Q. B. 144)	534
—— *v.* London and North Western Rail. Co. (43 L. J. M. C. 81)	73
—— *v.* London and South Western Rail. Co.	66, 70
—— *v.* London School Roard	27, 38, 81, 529
—— *v.* Long	489
—— *v.* Longwood	100
—— *v.* Lumsdaine	14, 540

	PAGE
Reg. *v.* Lydiard St. Lawrence	142
—— *v.* M'Cann	36
—— *v.* Macclesfield	146
—— *v.* Maidstone Union	136
—— *v.* Manchester	31
—— *v.* Manchester (Mayor of)	100
—— *v.* Manchester Overseers	34
—— *v.* Marriott 167,	210
—— *v.* Martin	115
—— *v.* Maude	359
—— *v.* Marylebone (19 L. J. M. C. 201)	173
—— or Marylebone Vestry *v.* Postmaster-General	30
—— *v.* Melsonby	398
—— *v.* Mersey and Irwell Navigation	16
—— *v.* Metropolitan Board of Works	82
—— *v.* Middlesex (11 A. & E. 809)	152
—— *v.* Middlesex JJ. (12 L. J. M. C. 36)	108
—— *v.* Middlesex JJ. (12 L. J. M. C. 134)	190
—— *v.* Middlesex JJ. (15 L. J. M. C. 100)	203
—— *v.* Middlesex JJ. (20 L. J. M. C. 42)	204
—— *v.* Middlesex JJ. (7 D. P. C.)	349
—— *v.* Middlesex JJ. (4 Q. B. 807)	221
—— *v.* Midland Rail. Co. (20 L. J. M. C. 125)	71
—— *v.* Midland Rail. Co. (11 L. T. (N.S.) 303)	78
—— *v.* Mildenhall	142
—— *v.* Mile End Old Town	99
—— *v.* Monmouthshire JJ. (12 L. J. M. C. 126)	205
—— *v.* Montgomeryshire JJ. (50 L. J. M. C. 52)	546
—— *v.* Morrish	24
—— *v.* Morrison	56
—— *v.* Morton	457
—— *v.* Neath Canal Co.	40
—— *v.* Newchurch	132
—— *v.* Newton Ferrers	148
—— *v.* North Aylesford Union	62
—— North & South Shields Ferry Co.	93

	PAGE
Reg. *v.* North Staffordshire Rail. Co. 69, 70,	75
—— *v.* Northwich Union	305
—— *v.* Northwich Incorporation	395
—— *v.* Oldham	465
—— *v.* Oldham Union	498
—— *v.* Oldland	270
—— *v.* Old Stratford	486
—— *v.* Oundle	146
—— *v.* Over	188
—— *v.* Overseers of Christ Church, Middlesex	328
—— *v.* Oxford	465
—— *v.* Parker 277,	283
—— *v.* Parr 359,	360
—— *v.* Paynter	211
—— *v.* Peranzabuloe	146
—— *v.* Peterborough JJ.	488
—— *v.* Pickering	377
—— *v.* Ponsonby 30,	32
—— *v.* Poor Law Commissioners (9 Q. B. 291)	499
—— *v.* Poor Law Commissioners, *Re* Allstonefield Union	464
—— *v.* Poor Law Commissioners, *Re* Brighton	443
—— *v.* Poor Law Commissioners, *Re* Cambridge Union	463
—— *v.* Poor Law Commissioners, *Re* Newport Union	445
—— *v.* Poor Law Commissioners, *Re* St. Giles-in-the-Fields and St. George's, Bloomsbury 461,	464
—— *v.* Poor Law Commissoners, *Re* St. James, Westminster	464
—— *v.* Poor Law Commissioners, *Re* St. Mary Abbotts, Kensington	445
—— *v.* Poor Law Commissioners, *Re* Strand Union	463
—— *v.* Pordage or Porditch	7
—— *v.* Portsea Guardians	135
—— *v.* Powell 324, 329, 330, 335,	337
—— *v.* Preston 116,	132

PAGE

Reg. v. Priors Hardwick 150
—— v. Putney 99
—— v. Rhymney Rail. Co. ...54, 78
—— v. Richmond (Recorder of) 156
—— v. Ripon JJ. 486
—— v. Rishton 209
—— v. Rishworth..... 142
—— v. Roberts..... 328
—— v. Robinson 439
—— v. Rogers 148
—— v. Ruabon 154
—— v. Ruyton-of-the-Eleven-Towns 157
—— v. Saffron Walden 480
—— v. St. Albans JJ. 546
—— v. St. Alkmund, Derby 204
—— v. St. Andrew's, Holborn (6 Q. B. 78) 466
—— v. St. Andrew, Holborn (10 A. & E. 739) ... 498
—— v. St. Ann, Blackfriars 139
—— v. St. Anne, Westminster (29 L. J. M. C. 78) 172
—— v. St. Anne, Westminster (16 L. J. M. C. 41) 146
—— v. St. Botolph's, Aldgate 113, 114
—— v. St. Faith 324
—— v. St. George the Martyr 37
—— v. St. George the Martyr, Southwark 48, 91
—— v. St. George's Union Assessment Committee 20
—— v. St. Giles, Camberwell 47, 53, 539
—— v. St. Giles-in-the-Fields (11 L. J. M. C. 18) 127, 480
—— v. St. Giles-in-the-Fields (13 L. J. M. C. 89) 143
—— v. St. Giles-in-the-Fields (7 Q. B. 529) 149, 150, 172
—— v. St. Giles Without, Cripplegate 395
—— v. St. Giles, York 48
—— v. St. James, Westminster 498
—— v. St. John's, Bedwardine 397
—— v. St. Luke, Middlesex... 498
—— v. St. Margaret, Leicester 129
—— v. St. Martin's-in-the-Fields..... 15
—— v. St. Martin's, Leicester 35

PAGE

Reg. v. St. Martin, New Sarum 154
—— v. St. Mary Abbotts, Kensington (12 A. & E. 824) 47
—— v. St. Mary, Bungay ... 143
—— v. St. Mary, Castlegate 126
—— v. St. Mary, Islington (31 L. J. M. C. 233) ... 474
—— v. St. Mary Kalendar 172, 479
—— v. St. Mary Lambeth (8 A. & E. 356) 327
—— v. St. Mary-le-bone (20 L. J. M. C. 61) 137
—— v. St. Marylebone (13 East, 51) 272
—— v. St. Mary Magdalen, Bermondsey 177
—— v. St. Mary, Newington 134, 481
—— v. St. Mary, Warwick ... 173, 396, 479
—— v. St. Pancras (27 L. J. M. C. 281) 464
—— v. St. Pancras (32 L. J. M. C. 174) 73
—— v. St. Pancras (11 A. & E. 15) 325, 326
—— v. St. Pancras Assessment Committee ... 38
—— v. St. Paul, Bedford..... 36
—— v. St. Paul's, Covent Garden (14 L. J. M. C. 109) 152
—— v. St. Paul's, Covent Garden (16 L. J. M. C. 11) 150
—— v. St. Thomas 173
—— v. Salisbury (Marquis of) 15, 93
—— v. Salop JJ. (11 L. T. (N.S.) 416)..... 337
—— v. Salop JJ. (10 L. J. M. C. 8) 4
—— v. Salop JJ. (24 L. J. M. C. 14) ...203, 220, 354
—— v. Salop JJ. (8 A. & E. 173) 487
—— v. Scriven-cum-Tentergate 480
—— v. Sharpley 88
—— v. Shavington-cum-Gresby 474
—— v. Shaw 88

PAGE

Reg. *v.* Shee 36
—— *v.* Sheffield United Gas Co. 58
—— *v.* Shepherd 31, 36
—— *v.* Sherford or Sherwood 89
—— *v.* Sherrard (Lord) 76
—— *v.* Shingler..... 497
—— *v.* Shipley 335
—— *v.* Shipston-on-Stour ... 152
—— *v.* Shrewsbury (Recorder of) 156, 484
—— *v.* Shropshire JJ. (10 L. J. M. C. 138) 190, 354
—— *v.* Simmonds..... 108
—— *v.* Simpson..... 336
—— *v.* Sinclair..... 108
—— *v.* Slawstone..... 204
—— *v.* Smallman 338, 495
—— *v.* Smith..... 19
—— *v.* Smith or Smith *v.* Birmingham Overseers 36
—— *v.* Sneyd..... 5, 301
—— *v.* Somersetshire JJ. (58 L. J. M. C. 115) ... 201
—— *v.* South Eastern Rail. Co. (20 L. J. M. C. 125) 71
—— *v.* Southampton Dock Co. 47, 53, 539
—— *v.* South Kilvington..... 479
—— *v.* South Staffordshire Waterworks Co.... 99, 102
—— *v.* Spurrell..... 6
—— *v.* Stafford (10 A. & E. 417) 474
—— *v.* Staffordshire JJ. (8 L. J. M. C. 62) ... 202
—— *v.* Staffordshire JJ. (10 L. J. M. C. 166) ... 5, 301
—— *v.* Staffordshire JJ. (26 L. J. M. C. 179) ... 489
—— *v.* Staffordshire JJ. (41 L. J. M. C. 78) 190, 221
—— *v.* Stainsby 33
—— *v.* Standish-cum-Langtice..... 149
—— *v.* Stapleton 82
—— *v.* Stepney 147
—— *v.* Sterry..... 48
—— *v.* Stevens 33
—— *v.* Stewart..... 31, 33
—— *v.* Stockton and Darlington Rail. Co. 74

PAGE

Reg. *v.* Stoke Bliss..... 188
—— *v.* Stockton-on-Tees...148, 484
—— *v.* Street..... 224
—— *v.* Suffolk JJ. (10 L. J. M. C. 138) 190, 220, 354
—— *v.* Suffolk JJ. (18 Q. B. 416) 209
—— *v.* Suffolk JJ. (8 Dowl. 618) 222
—— *v.* Surrey JJ. (1 M. & S. 479)..... 190, 191
—— *v.* Surrey JJ. (43 L. T. 500) 221
—— *v.* Surrey JJ. (15 L. J. M. C. 46) 204
—— *v.* Surrey JJ. (32 L. J. M. C. 153)..... 328
—— *v.* Surrey JJ. (41 L. J. M. C. 133)..... 34
—— *v.* Surrey JJ. (12 A. & E. 139) 10
—— *v.* Surrey JJ. (6 Q. B. D. 100) 222
—— *v.* Surrey JJ. (3 D. & L. 343) 155
—— *v.* Sussex JJ. (9 L. J. M. C. 22) 485
—— *v.* Sussex JJ. (34 L. J. M. C. 69)... 202, 486, 487
—— *v.* Sussex JJ. (4 B. & S. 966) 190
—— *v.* Sulcoates 271
—— *v.* Sutton 327
—— *v.* Sutton-under-Brailes 135, 481
—— *v.* Temple 48
—— *v.* Thomas..... 327
—— *v.* Thornton..... 109, 130
—— *v.* Tipton 154
—— *v.* Tiverton 398
—— *v.* Todd 65
—— *v.* Toke 116
—— *v.* Tombleson..... 8
—— *v.* Totnes Union 448
—— *v.* Tottenham 324
—— *v.* Trafford 221, 545
—— *v.* Treasurer of the County of Kent ... 290
—— *v.* Trowbridge 142
—— *v.* Vange..... 28, 538
—— *v.* Verrall 79, 535
—— *v.* Wainfleet, All Saints 318

PAGE

Reg. *v.* Waldo 48
—— *v.* Wallingford Union ... 38
—— *v.* Wall Lynn 18
—— *v.* Walsall 157
—— *v.* Walters 327
—— *v.* Watford 133
—— *v.* Watson 9
—— *v.* Wells 539
—— *v.* West Ardsley 397
—— *v.* Westbrook 62, 530, 531
—— *v.* Westbury or Trim 172
—— *v.* West Derby 38, 81
—— *v.* West Middlesex Waterworks Co. ... 100
—— *v.* Westmoreland JJ. (12 L. J. M. C. 113) ... 489
—— *v.* Whaddon 22, 65
—— *v.* Whissendine 480
—— *v.* Wickenby 202
—— *v.* Widdecombe-in-the-Moor 141, 146, 351
—— *v.* Wigan 142, 143
—— *v.* Wilson 49
—— *v.* Wodehouse 270, 490
—— *v.* Worcestershire JJ. (11 A. & E. 57) 34
—— *v.* Worcestershire JJ. (10 L. J. M. C. 12) 210
—— *v.* Worthenbury 152
—— *v.* Wortley 399
—— *v.* Wye 145
—— *v.* Yarborough (Earl of) 541
—— *v.* Yelvertoft 138
—— *v.* Yeoveley 146
—— *v.* Yorks N. R. JJ. (2 B. & C. 286) 470
—— *v.* Yorks N. R. JJ. (6 A. & E. 863) 2
—— *v.* Yorks N. R. JJ. (6 L. T. (N.S.) 351) ... 271
—— *v.* Yorks W. R. JJ. (2 Q. B. 505) 486
—— *v.* Yorks W. R. JJ. (60 L. J. M. C. 122) 271, 490
—— *v.* Yorks W. R. JJ. (14 L. J. M. C. 119) ... 204
—— *v.* Yorks W. R. JJ. (69 L. J. Q. B. 13) 363
—— *v.* Yorks W. R. JJ. (12 L. J. M. C. 148) ... 188
—— *v.* Yorks W. R. JJ. (11 L. J. M. C. 80) 142

PAGE

Reg. *v.* Yorks W. R. JJ. (2 Q. B. 705) 152
Reigate Union *v.* Croydon Union 135, 157, 139, 481
Rex *v.* Abdy 7
—— *v.* Aberavon 79
—— *v.* Aberdardon 125
—— *v.* Aberystwith 19
—— *v.* Acton Beauchamp ... 198
—— *v.* Adams 538
—— *v.* Agar 436
—— *v.* Aire and Calder Navigation (2 B. & C. 713) 540
—— *v.* Aire and Calder Navigation (3 B. & Ad. 533) 45, 91
—— *v.* Aire and Calder Navigation (9 B. & C. 820) 45
—— *v.* Aire and Calder Navigation (2 T. R. 660) 45
—— *v.* Alderbury 61
—— *v.* Aldstone 177
—— *v.* Allison or Wilkinson... 138
—— *v.* All Saints, Derby 124
—— *v.* All Saints, Hereford 174, 241
—— *v.* Alnwick 293
—— *v.* Ambleside 14, 277
—— *v.* Amersham 176
—— *v.* Ampthill 140, 265, 266
—— *v.* Andover 148
—— *v.* Angel 358
—— *v.* Anstey 318
—— *v.* Archdeacon of Chester 324
—— *v.* Ardleigh 132
—— *v.* Arlecdon 487
—— *v.* Arnsby 175
—— *v.* Arundel 175
—— *v.* Aslackby 129
—— *v.* Ashby-de-la-Zouche... 179
—— *v.* Ashley Hay 397
—— *v.* Astley 134
—— *v.* Aston 125
—— *v.* Attwood 62
—— *v.* Aurner 156
—— *v.* Avon Co. 45
—— *v.* Axmouth 172
—— *v.* Aythorpe Rooding ... 123, 136
—— *v.* Bagworth 141
—— *v.* Baildon 176
—— *v.* Banbury 178, 179, 396
—— *v.* Baptist Mill Co. 65

	PAGE
Rex *v.* Barleston	179
—— *v.* Barmby-in-the-Marsh	178
—— *v.* Barnston	174
—— *v.* Barnard Castle	131
—— *v.* Barnby Dun	28
—— *v.* Barnes	92
—— *v.* Barnsley	179
—— *v.* Bartlett	86
—— *v.* Barton Broadstock	177
—— *v.* Bath (Mayor of)	99
—— *v.* Bathwick	138
—— *v.* Bedingham	149, 266
—— *v.* Bedworth	28, 63
—— *v.* Beeston	14
—— *v.* Belford	127
—— *v.* Bell	95, 103
—— *v.* Benneworth	125
—— *v.* Benoire	114
—— *v.* Bentley	146
—— *v.* Berkswell	130, 138, 396
—— *v.* Benn and Church	106, 306
—— *v.* Beverley Gas Works	57
—— *v.* Billingshurst	138
—— *v.* Binegar	139, 144
—— *v.* Birmingham	136
—— *v.* Birmingham Canal Co.	30, 40
—— *v.* Bishop of Rochester	63
—— *v.* Black Callerton	266
—— *v.* Bletshow	216
—— *v.* Boldero	87
—— *v.* Bond	147
—— *v.* Bosworth	177
—— *v.* Bourn	148
—— *v.* Bourton-upon-Dunsmore	176
—— *v.* Bowling	149
—— *v.* Bradford (1 M. & S. 151)	176
—— *v.* Bradford (9 East, 97)	272
—— *v.* Bradford (4 M. & S. 329)	533
—— *v.* Bramley	135
—— *v.* Brampton	138
—— *v.* Bramshaw	150, 178
—— *v.* Bretell	61
—— *v.* Bridgewater (Duke of)	39
—— *v.* Brighthelmstone	178
—— *v.* Brington	123, 136
—— *v.* Bromyard	280
—— *v.* Brooke	281
—— *v.* Brotton	178

	PAGE
Rex *v.* Brown	61
—— *v.* Buckinghamshire JJ.	202
—— *v.* Bucklebury	151
—— *v.* Burder	10, 11
—— *v.* Burslem	177
—— *v.* Burton-on-Trent	138
—— *v.* Butler	3, 117
—— *v.* Butley	124
—— *v.* Butterton	131
—— *v.* Carmarthen JJ.	190
—— *v.* Calder and Hebble Navigation Co.	29
—— *v.* Calow	131
—— *v.* Cambridge JJ.	220
—— *v.* Capel	86
—— *v.* Cardington	44
—— *v.* Carleton	137
—— *v.* Carlyon	86
—— *v.* Cassington	126
—— *v.* Castleton	177
—— *v.* Catt	49, 82
—— *v.* Catherine's-near-the-Tower	134
—— *v.* Catherington	129
—— *v.* Catterall	144, 145
—— *v.* Causton	223
—— *v.* Caversall	396
—— *v.* Caversham	124
—— *v.* Chaderton	143
—— *v.* Chailey	198
—— *v.* Chaplin	39, 42, 530
—— *v.* Chardstock	6
—— *v.* Charles	177
—— *v.* Charlton	197
—— *v.* Chatham (8 East, 498)	143
—— *v.* Chawton	395
—— *v.* Cheadle	130, 199
—— *v.* Chelmer and Blackwater Navigation Co.	43, 46
—— *v.* Chelsea Waterworks Co.	98
—— *v.* Cheshunt	277
—— *v.* Chew Magna	130, 131
—— *v.* Chilverscoton	145, 147
—— *v.* Chipping Norton	124
—— *v.* Chipping Warden	179
—— *v.* Chirk	180
—— *v.* Chirton	50
—— *v.* Christowe	180
—— *v.* Christopherson	86, 87
—— *v.* Churchill	79

	PAGE
Rex *v.* Cirencester	177
—— *v.* Clapham	180, 219
—— *v.* Clear	217
—— *v.* Clentham	114
—— *v.* Clerkenwell	331
—— *v.* Clifton	5
—— *v.* Clifton-upon-Dunsmore	176
—— *v.* Closworth	174
—— *v.* Coke	94
—— *v.* Colchester	396
—— *v.* Cold Ashton	131
—— *v.* Colerton	143
—— *v.* Collett	13
—— *v.* Colliton	156
—— *v.* Coln St. Aldwin's	142, 147
—— *v.* Commissioners of Salter's Load Sluice	37
—— *v.* Coode	222
—— *v.* Coppall	173
—— *v.* Cornish	114
—— *v.* Corsham	144, 145
—— *v.* Cottingham	137, 188, 198
—— *v.* Coventry Canal Co.	43
—— *v.* Crediton	134, 179
—— *v.* Creech St. Michael's	133
—— *v.* Cregrina	129
—— *v.* Cromford	175
—— *v.* Crowland	153
—— *v.* Cumberland JJ.	358
—— *v.* Darlington	129
—— *v.* Davis	154, 182
—— *v.* Dempson	114
—— *v.* Denham	166
—— *v.* Derbyshire JJ.	487
—— *v.* Dersingham	124
—— *v.* Devon JJ.	12, 448
—— *v.* Diddlebury	152
—— *v.* Ditcheat	172, 395
—— *v.* Ditchingham	174, 175, 241
—— *v.* Dorchester JJ.	541
—— *v.* Dorsetshire JJ.	221
—— *v.* Dorstone	130, 132
—— *v.* Dudley Canal Navigation Co.	30, 41
—— *v.* Dunchurch	198
—— *v.* Dunn	114, 115
—— *v.* Dunsford	61
—— *v.* Durham	153
—— *v.* Ealing	145
—— *v.* Eastbourne	136
—— *v.* East Bridgeford	180
Rex *v.* Eastchurch	105
—— *v.* East Teignmouth	173
—— *v.* East Winch	143
—— *v.* Eatington	128, 199
—— *v.* Ecclesall	318
—— *v.* Edwards	541
—— *v.* Edwinstowe	142
—— *v.* Effingham (Earl of)	157
—— *v.* Ellis	49
—— *v.* Elswick	178
—— *v.* Englefield	269
—— *v.* Erith	133, 136
—— *v.* Essex JJ. (5 M. & S. 513)	220
—— *v.* Essex JJ. (1 D. P. C. 539)	224
—— *v.* Essex JJ. (8 T. R. 583)	223
—— *v.* Everdon	148, 269, 294
—— *v.* Eyford	166
—— *v.* Eyles	36
—— *v.* Eyre	91
—— *v.* Fakenham	176
—— *v.* Fearnley	115
—— *v.* Field	17
—— *v.* Fillongley	144, 358
—— *v.* Fisher	3
—— *v.* Fleet	175
—— *v.* Flintan	357
—— *v.* Foleshill	62
—— *v.* Folly	541
—— *v.* Forrest	3, 9
—— *v.* Foulness	178
—— *v.* Fowke	94
—— *v.* Framlingham	397
—— *v.* Gardner	18
—— *v.* Gainsborough	177
—— *v.* Garway	131
—— *v.* Gayer	8
—— *v.* Geddington	199
—— *v.* George	219
—— *v.* Gloucester JJ.	106
—— *v.* Gordon	9, 167, 354
—— *v.* Grand Junction Canal Co.	30, 40, 43
—— *v.* Granville (Lord)	63
—— *v.* Gravesend	174
—— *v.* Great Bedwin	151, 206
—— *v.* Great Bentley	395
—— *v.* Great Chart	148, 205
—— *v.* Great Farringdon	128
—— *v.* Great Glen	132
—— *v.* Great Hambleton	88

	PAGE
Rex *v.* Great Marlow	9
—— *v.* Great Western Rail. Co.	43
—— *v.* Great Yarmouth	148, 208
—— *v.* Green	50
—— *v.* Griesley	105
—— *v.* Gulley	115
—— *v.* Gully	12
—— *v.* Hagworthingham	200
—— *v.* Halifax	115
—— *v.* Hammersmith Bridge Co.	92
—— *v.* Harberton	137
—— *v.* Harborne	138
—— *v.* Harman	3, 5
—— *v.* Hartfield	156
—— *v.* Hasfield	128
—— *v.* Hasler	87
—— *v.* Hatfield Broadoak	197
—— *v.* Heaton Norris	133
—— *v.* Hedsor	137, 138
—— *v.* Helling	10
—— *v.* Hendon	222
—— *v.* Herstmonceaux	395
—— *v.* Hertfordshire JJ. (2 B. & Ad. 560)	222
—— *v.* Hertfordshire JJ. (7 L. J. (o.s.) M. C. 73)	217
—— *v.* Hinxworth	136, 139
—— *v.* Hipswell	174
—— *v.* Hogg	59
—— *v.* Hooe	125
—— *v.* Holbecke	105
—— *v.* Holm, East Waver Quarter	129, 150
—— *v.* Holy Trinity in the Minories	179
—— *v.* Hornchurch	131
—— *v.* Horsley	130
—— *v.* Horton	166
—— *v.* Houghton-le-Spring	123, 131
—— *v.* Houlditch	3
—— *v.* Howarth	142, 147
—— *v.* Hull Dock Co.	28, 50, 53, 305, 539
—— *v.* Hurdis	33
—— *v.* Hyworth	12
—— *v.* Iddesleigh	178
—— *v.* Iken	124
—— *v.* Ilkeston	178
—— *v.* Ilmington	131
—— *v.* Ingleton	127, 197
Rex *v.* Inman	180
—— *v.* Isle of Wight Guardians	437
—— *v.* Iver	396
—— *v.* Joddrell	88
—— *v.* Joliffe	103
—— *v.* Jones	10, 11, 14, 115
—— *v.* Joyce	114
—— *v.* Kea	135
—— *v.* Kempson	114
—— *v.* Kenardington	124
—— *v.* Kibworth Harcourt	398
—— *v.* Kimbolton	203
—— *v.* Kings Langley	156
—— *v.* Kingsweare	174, 241
—— *v.* Kingswinford	41
—— *v.* Kirby Stephen	145
—— *v.* Knaptoff	146
—— *v.* Knibworth Harcourt	497
—— *v.* Knightly	105
—— *v.* Kynaston	271
—— *v.* Lambeth	86, 202
—— *v.* Lampeter	269
—— *v.* Langham	181, 259, 318
—— *v.* Leeds	137
—— *v.* Leeds and Liverpool Canal Co.	40, 41
—— *v.* Leigh	166, 167
—— *v.* Leverington	144
—— *v.* Lindsay JJ.	202
—— *v.* Litton	115
—— *v.* Liverpool	26, 50
—— *v.* Llanfaethly	173
—— *v.* Llangammarch	172
—— *v.* Llangian	148
—— *v.* Llangunnor	176
—— *v.* Llanrhydd	145, 152
—— *v.* Llantilio Grosseney	200
—— *v.* Llanverras	124
—— *v.* Llanwinio	153
—— *v.* London Gas Light and Coke Co.	29
—— *v.* London (Mayor of)	15, 20, 92, 103
—— *v.* Long Bennington	200
—— *v.* Long Wittenham	127
—— *v.* Louth	175, 176
—— *v.* Lower Heyford	172
—— *v.* Lower Mitton	42, 539
—— *v.* Lower Swell	130
—— *v.* Loxdale	5
—— *v.* Lubbenham	134

PAGE

Rex *v.* Luffe 135
—— *v.* Lydlinch 197
—— *v.* Macclesfield 395
—— *v.* Manchester (14 L. J. M. C. 126) 266
—— *v.* Manchester (4 B. & Ald. 504) 244, 302
—— *v.* Manchester, South Junction and Altrincham Rail. Co. 66
—— *v.* Manchester Waterworks Co..... 98
—— *v.* Mansfield..... 135, 151
—— *v.* Margram..... 174, 241
—— *v.* Marwood 201
—— *v.* Mast 531
—— *v.* Matlock..... 123
—— *v.* Mattersey 134
—— *v.* Mattingley 198
—— *v.* Melborne 127
—— *v.* Mersey and Irwell Navigation 44
—— *v.* Middleham 151
—— *v.* Mile End Old Town... 474
—— *v.* Milland (Tithing of).. 105
—— *v.* Milton 46, 277
—— *v.* Milverton 156
—— *v.* Minchinhampton..... 151
—— *v.* Minster 124
—— *v.* Monmouthshire Canal Co..... 32, 40
—— *v.* Monmouth JJ. 204
—— *v.* Moor Critchell 147
—— *v.* Morris 10
—— *v.* Mosley 95
—— *v.* Munday..... 50, 113
—— *v.* Munden..... 113
—— *v.* Newbury 220
—— *v.* Newcomb..... 210, 278
—— *v.* Netherton 151
—— *v.* Newell 167
—— *v.* New River Co.....97, 98
—— *v.* Nicholson 93
—— *v.* Norfolk JJ. (4 B. & Ad. 238) 217
—— *v.* Norfolk JJ. (5 B. & Ad. 990)..... 202, 205
—— *v.* Normanton 149
—— *v.* Northamptonshire JJ. 488
—— *v.* North Bedburn..... 124
—— *v.* North Cerney 131
—— *v.* North Curry..... 130

PAGE

Rex *v.* North Featherston ... 138
—— *v.* Northfield 136
—— *v.* North Petherton 133
—— *v.* North Shields...12, 183, 448
—— *v.* North Weald Bassett 127
—— *v.* Notton 318
—— *v.* Oakley..... 129, 131
—— *v.* Oakmere 154
—— *v.* Offchurch 130
—— *v.* Offerton..... 318
—— *v.* Okeford Fitzpaine ... 130
—— *v.* Old Alresford 124
—— or Old Windsor *v.* Matthews 32
—— *v.* Olney 198
—— *v.* Orwell and Woking... 156
—— *v.* Owersby-le-Moor...129, 132
—— *v.* Owlton 147
—— *v.* Oxford Canal Navigation..... 42, 43
—— *v.* Oxfordshire JJ. (16 J. P. 309) 7
—— *v.* Page 45
—— *v.* Painswick 127
—— *v.* Pakefield..... 396, 398
—— *v.* Palmer 46, 167
—— *v.* Parrott..... 28, 63
—— *v.* Paynter.....540, 541
—— *v.* Pembrokeshire JJ. (2 B. & Ad. 391)..... 157
—— *v.* Penkridge 270
—— *v.* Pennoyer 115
—— *v.* Penrhyn..... 272
—— *v.* Pensax 131
—— *v.* Percival..... 105
—— *v.* Peterborough JJ..... 166
—— *v.* Piddlehinton 200
—— *v.* Piddletrenthithe 124
—— *v.* Pinney 5
—— *v.* Pitt..... 62
—— *v.* Player 335
—— *v.* Pomfret (Earl of) ... 14, 64
—— *v.* Poor Law Commissioners, *Re* Holborn 447
—— *v.* Poor Law Commissioners, *Re* Whitechapel 447
—— *v.* Portmore (Earl of) ...40, 46
—— *v.* Poynder..... 6
—— *v.* Prouse 7
—— *v.* Puckington..... 180, 259
—— *v.* Purley 124
—— *v.* Quainton 175

	PAGE
Rex *v.* Ramsgate	397
—— *v.* Ranton Abbey	166
—— *v.* Reeve	116
—— *v.* Ribchester	178
—— *v.* Ringstead	128
—— *v.* Ringwood	277
—— *v.* Ripon	175
—— *v.* Rochdale Waterworks Co.	98
—— *v.* Rochester (Bishop of)	14, 64
—— *v.* Rook	135
—— *v.* Rudgeley	144
—— *v.* Rufford	166
—— *v.* Ryton	137
—— *v.* Saughton-on-the-Hill	153
—— *v.* St. Agnes	14, 64
—— *v.* St. Albans JJ.	3
—— *v.* St. Andrew's, Holborn (6 T. R. 613)	146
—— *v.* St. Andrew's-the-Less, Cambridge	303
—— *v.* St. Austell	14, 64
—— *v.* St. Bartholomew's Hospital	48
—— *v.* St. Botolph's, Bishopsgate	137
—— *v.* St. George the Martyr, Southwark	124
—— *v.* St. Giles-in-the-Fields (Burr. S. C. 798)	124
—— *v.* St. Giles-in-the-Fields (4 A. & E. 495)	396
—— *v.* St. Gregory	174, 250
—— *v.* St. Helen, Stonegate	179
—— *v.* St. James in Bury St. Edmunds	140
—— *v.* St. John's, Hackney	270
—— *v.* St. John's, Southwark	172
—— *v.* St. Lawrence, Appleby	396
—— *v.* St. Lawrence, Ludlow	141
—— *v.* St. Luke's	25
—— *v.* St. Luke's Hospital	48
—— *v.* St. Luke's, Middlesex	179
—— *v.* St. Margaret's, Lincoln	175, 180
—— *v.* St. Martin's, Exeter	179
—— *v.* St. Mary, Beverley	138
—— *v.* St. Mary, Bredin	178
—— *v.* St. Mary's in Marlborough	105
—— *v.* St. Mary, Lambeth (8 T. R. 240)	124
Rex *v.* St. Mary, Lambeth (Cald. 533)	179
—— *v.* St. Mary, Lambeth (6 T. R. 615)	144
—— *v.* St. Mary's, Leicester	40, 91, 148
—— *v.* St. Mary Ottery	151
—— *v.* St. Mary-the-Less, Durham	19
—— *v.* St. Mary, Whitechapel	127
—— *v.* St. Matthew, Bethnal Green	176
—— *v.* St. Michael's, Bath	132
—— *v.* St. Nyott's	127, 132
—— *v.* St. Nicholas, Gloucester	59
—— *v.* St. Nicholas, Ipswich	250
—— *v.* St. Nicholas, Leicester	134
—— *v.* St. Nicholas, Rochester	395
—— *v.* St. Olaves Jewry	177
—— *v.* St. Paul, Bedford	179
—— *v.* St. Paul, Deptford	397
—— *v.* St. Peter Mancroft, Norwich	96
—— *v.* St. Peter's-on-the-Hill	175
—— *v.* St. Peter the Great	30
—— *v.* St. Peter's the Great, Worcester	40
—— *v.* St. Peter's in Worcestershire	135
—— *v.* St. Peter's, York, JJ.	283
—— *v.* St. Petrox in Dartmouth	175
—— *v.* St. Saviour's, Southwark (1 A. & E. 380)	325
—— *v.* Sandford	318
—— *v.* Sandhurst	179
—— *v.* St. Sepulchre, Cambridge	398
—— *v.* Saltern	175
—— *v.* Salter's Load Sluice Commissioners	25
—— *v.* Scammonden	199
—— *v.* Scott	29
—— *v.* Seamar	125
—— *v.* Seard	144
—— *v.* Sedgeley	61
—— *v.* Severn and Arnold	166
—— *v.* Severn Navigation Co.	44
—— *v.* Sheard	280
—— *v.* Shebbear	180
—— *v.* Sheepshead	257

	PAGE
Rex *v.* Shenstone	131
—— *v.* Sherrington	129
—— *v.* Shipton	318
—— *v.* Shower	166
—— *v.* Shrewsbury Gas Co.	57
—— *v.* Shrewsbury JJ.	219
—— *v.* Silchester	138, 144
—— *v.* Skingle	86
—— *v.* Smarden	178
—— *v.* Smith	114
—— *v.* Snowdon	91, 95
—— *v.* Somerby	178
—— *v.* Somerset JJ. (7 B. & C. 681)	112
—— *v.* Southerham	144
—— *v.* South Lynn, All Saints	148, 274
—— *v.* Southwark	436
—— *v.* Southwold	148
—— *v.* Sparrow	5, 301
—— *v.* Spitalfields	134
—— *v.* Stafford and Worcester Canal	39
—— *v.* Staffordshire JJ. (8 L. J. M. C. 62)	202
—— *v.* Standard Hill	3, 166
—— *v.* Standrish	128
—— *v.* Standon	126
—— *v.* Stanfield	149
—— *v.* Stanley	3
—— *v.* Stanstead Mount Fitchett	142
—— *v.* Stewart	13
—— *v.* Stockland	138, 180, 197
—— *v.* Stockley Pomeroy	127
—— *v.* Stoke Damerel	172, 174
—— *v.* Stoke Golding	10
—— *v.* Stoke-Ursey or Stoke-Guerry	12
—— *v.* Stone	128, 129
—— *v.* Stotfold	147
—— *v.* Stourton	135
—— *v.* Stratford-upon-Avon	178
—— *v.* Stratton	174, 241
—— *v.* Stubbs	6, 10
—— *v.* Sudbury	80
—— *v.* Suffolk JJ. (6 M. & S. 57)	220
—— *v.* Suffolk JJ. (4 A. & E. 319)	487
Rex *v.* Suffolk JJ. (1 B. & Ald. 640)	282
—— *v.* Surrey JJ. (1 M. & S. 479)	223
—— *v.* Sussex JJ. (7 T. R. 107)	190, 223
—— *v.* Sussex JJ. (3 L. J. M. C. 56)	87
—— *v.* Sussex JJ. (15 East, 206)	219, 221
—— *v.* Swalcliffe	145
—— *v.* Tamworth	153
—— *v.* Tarrant Launceston	129
—— *v.* Taunton JJ.	220
—— *v.* Tavistock	141, 180
—— *v.* Tedford	198
—— *v.* Teignmouth	94
—— *v.* Telscombe	105
—— *v.* Terrott	33
—— *v.* Tewkesbury	81
—— *v.* Thomas	45
—— *v.* Thruscross	126
—— *v.* Thurmaston	397
—— *v.* Tipper	12
—— *v.* Titchfield	178
—— *v.* Tillingham	398
—— *v.* Toddington	129
—— *v.* Tolpuddle	124
—— *v.* Topcroft	124
—— *v.* Topham	220
—— *v.* Tottington Lower End	139
—— *v.* Tremayne	64
—— *v.* Trent and Mersey Navigation Co.	22, 41
—— *v.* Tripping	115
—— *v.* Trowbridge	134, 143
—— *v.* Trustees of Great Dover Road	93
—— *v.* Turner	86, 216
—— *v.* Twyning	138
—— *v.* Tynemouth	17
—— *v.* Ufculm	150
—— *v.* Upton	197
—— *v.* Uplin	147
—— *v.* Uttoxeter	129, 166
—— *v.* Vanderwall	15
—— *v.* Walsall	167
—— *v.* Waltham Magna	151
—— *v.* Walthamstow	474
—— *v.* Walton (Higher)	151
—— *v.* Warkworth	126
—— *v.* Warnhill	151

PAGE

Rex *v.* Warwickshire JJ..... 14
—— *v.* Watson 79
—— *v.* Weaver Navigation ... 16, 25, 44
—— *v.* Welbeck 166
—— *v.* Wellbank 14, 15, 64
—— *v.* Weobley 172
—— *v.* West Cranmore 125
—— *v.* Westerham 137
—— *v.* Westmoreland 156
—— *v.* West Sheffield 132
—— *v.* Westwood 149, 151
—— *v.* Wetherill 12
—— *v.* Wheelock 146
—— *v.* White..... 219
—— *v.* Whixley..... 133
—— *v.* Wick St. Lawrence ... 146
—— *v.* Widworthy 130
—— *v.* Wilby..... 129
—— *v.* Wilkinson or Allison 138
—— *v.* Willoughby - with - Sloothby 128
—— *v.* Wilson 86
—— *v.* Wilts JJ. (8 B. & C. 380) 221
—— *v.* Wiltshire JJ. (10 East, 404) 202
—— *v.* Winship..... 12
—— *v.* Wiston 87
—— *v.* Withernwick..... 149
—— *v.* Witney 277
—— *v.* Witton - cum - Twam - brookes 139
—— *v.* Wivelingham 197
—— *v.* Woburn..... 126
—— *v.* Woking 46
—— *v.* Wooburn 131
—— *v.* Woodchester..... 139, 144
—— *v.* Woodford 116, 133
—— *v.* Woodland 61
—— *v.* Woodward..... 436
—— *v.* Wooldale 175
—— *v.* Woolpit..... 200
—— *v.* Wootton..... 396
—— *v.* Worcestershire JJ. ... 112
—— *v.* Wordsford 137
—— *v.* Wykes 142
—— *v.* Yarwell 142
—— *v.* York (Mayor of) 80
—— *v.* Yorks N. R. JJ. (2 B. & C. 292) 13

PAGE

Rex *v.* York. N. R. JJ. (6 L. J. M. C. 110)..... 337
—— *v.* Ynyscynhanarn 130
—— *v.* Yspythy..... 151
Rhymney Rail. Co. *v.* Price... 109
Ringmore *v.* Petworth 150
Roads *v.* Trumpington 22, 65
Roberts *v.* Aylesbury 95
Robson *v.* Hyde..... 436
Rochdale Canal Company *v.* Brewster..... 23
Roostem *v.* Flixton 149
Rowls *v.* Gells 15, 64
Rudd *v.* Foster 8
Rumball *v.* Munt 345
Rushton Spencer *v.* North Staffordshire Rail. Co. ... 69, 70
Ruttinger *v.* Temple..... 114, 481
Ryslip *v.* Harrow 131, 139

St. Andrew's Undershaft *v.* De Breta..... 115
St. Asaph *v.* Llanrhaiadr-yn-Mochant 90, 514, 539
St. Benedict *v.* St. Peter's ... 105
St. Bride's *v.* St. Saviour's ... 177
St. Devereux *v.* Much Dewchurch..... 138
St. Gabriel, Fenchurch *v.* Williams..... 30
St. George, Hanover Square *v.* Cambridge Union..... 173
St. George's *v.* St. Olaves ... 149
St. Giles *v.* St. Margaret's ... 137
St. Giles, Reading *v.* Eversley, Blackwater..... 136
St. John the Baptist *v.* St. James 177
St. Luke's Hospital Case..... 37
St. Mary's *v.* St. Peter and Paul's, Marlborough..... 105
St. Mary Colechurch *v.* Radcliffe..... 177
St. Mary's, Nottingham *v.* Kirklington 205
St. Michael's, Bedingham *v.* Kingston Bowsey 146
St. Nicholas, Deptford *v.* Sketchley 345
St. Nicholas, Rochester *v.* St. Botolph Without 174

PAGE
St. Olaves *v.* All Hallows ... 179
St. Pancras *v.* Clapham 175
St. Paul's, Walden *v.* Kempton 132, 197
St. Saviour's Union *v.* Dorking Union 154
St. Thomas' Hospital *v.* Stratton 49
Saddlecomb *v.* Burwash 151
Sanders *v.* St. Neots Union ... 468
Sanderson *v.* Aston 340
Scadding *v.* Lorrant 324
Selwood *v.* Mount..... 489
Severn Navigation Commissioners *v.* Tewkesbury 46
Sharpley *v.* Mabelthorpe 8
Shaw *v.* Thompson 328
Sheffield United Gas Light and Coke Co. *v.* Sheffield 58, 102
Shepherd *v.* Hall 177
Sheppard *v.* Bradford 38, 81
Shingley *v.* Surridge 107, 337
Shrewsbury and Hereford Rail. Co. *v.* Leominster.. 223, 280
Showers *v.* Chelmsford Union 35
Sibbald *v.* Roderick 211
Sibbet *v.* Ainsley 357
Shelton *v.* Rushby..... 338
Shillet *v.* Fletcher 340
Skinner *v.* Buckee..... 312
Slater *v.* Hodgson..... 228, 329, 330
Smart *v.* West Ham Union ... 469
Smith *v.* Adkins..... 344
—— *v.* Barham 107
—— *v.* Birmingham 31
—— *v.* Birmingham Churchwardens ... 531, 538, 539
—— *v.* BirminghamOverseers 36
—— *v.* Deighton 324
—— *v.* Hall 430
—— *v.* Lambeth Assessment Committee 23
—— *v.* New Forest Union ... 16
—— *v.* St. Mary, Lambeth ... 77
—— *v.* St. Michael's, Cambridge 19
—— *v.* Seghill 17
South Eastern Rail. Co. *v.* Dorking 72
Southport (Mayor, &c. of) *v.* Ormskirk.....20, 59
PAGE
South Sydenham *v.* Lamberton 124, 125
South Wales Rail. Co. *v.* Swansea 76
Southwark and Vauxhall Water Co. *v.* Hampton..... 102
Southwell *v.* Needwell 149
Spalding *v.* St. John the Baptist 149
Spear *v.* Bodmin Union..... 96
Spenceley *v.* Robinson ... 211, 212
Spitalfields *v.* St. Andrew's, Holborn 132
Sportland, *Ex parte*..... 228
Staley *v.* Castleton..... 531
Stallingburgh *v.* Haxley 150
Stanley *v.* Castleton..... 60
Staple Inn *v.* Holborn 448
Stratford *v.* Norton 137
Steele *v.* Williams..... 522
Stephenson *v.* Langston 7
Stevens *v.* Evans..... 106, 306
Stoke Flemming *v.* Berry Pomeroy 177
Stockport *v.* London and North Western Rail. Co.... 76
Stoughton *v.* Reynolds..... 325
Stourbridge Union *v.* Droitwich Union..... 154
Suckley *v.* Whitborn..... 134
Sulcoates Union *v.* Hull Docks Co. 51, 52, 74, 537
Sunderland Overseers *v.* Sunderland Union 536
Sutton Harbour Co. *v.* Plymouth Guardians 75
Sweeney *v.* Spooner 359, 360

Talargoch Lead Mining Co. *v.* St. Asaph Union 64
Tarr *v.* M'Gahey..... 430
Tawnay's Case 12
Taylor's Case 429
Taylor *v.* Best..... 37
—— *v.* Crowland Gas and Coke Co. 469
—— *v.* Pendleton 39
Teather, *Ex parte*..... 467
Tenterden Union *v.* St. Mary, Islington 135, 482
Tennant *v.* Bell..... 211

	PAGE
Tennant *v.* Cranston	544
—— *v.* Creston	211
Tiverton Overseers *v.* Mangotsfield Overseers	398
Tubb *v.* Harrison	113, 114
Tunnicliffe *v.* Birkdale Overseers	38, 81
Tyne Boiler Works *v.* Longbenton	60
Tyne Coal Co., Ltd. *v.* Wallsend	63
Tyne Improvement Commissioners *v.* Chirton	50, 53
Tyne Pontoons *v.* Tynemouth	56
Ulverstone Union *v.* Park	113
Underwood *v.* Jones	335
Uthwatt *v.* Elkins	344
Vaughan, *Ex parte*	349
Waite's Case	16
Walton *v.* Chesterfield	147
Walton-on-the-Hill *v.* Jones	106
Wansey *v.* Perkins, Lockey's Case	425
Ward *v.* Clarke	344
Warwick and Birmingham Canal Co. *v.* Birmingham	40
Warwick, Case of the Borough of	3
Watkins *v.* Milton-next-Gravesend	21
Webb *v.* James	340
Webster *v.* Southey	345, 504
Welby *v.* Brown	14
Wendron *v.* Stithians	198, 199
West *v.* Andrews	312
West Bromwich School Board *v.* West Bromwich Overseers	25, 81
Western Rivers *v.* St. Peter's	149
Westham *v.* Chiddingstone	137
West Ham *v.* Fourth City Mutual Benefit Building Society	15, 346, 347, 542
West Ham *v.* Iles	346, 347
West Ham Union *v.* St. Giles-in-the-Fields	137
West Middlesex Waterworks *v.* Coleman	533
Westminster Union *v.* Buckle	115
Wethered *v.* Calcutt	213
Wheeler *v.* Burmington	89, 546
Whitchurch *v.* Chapman	212
White *v.* Steele	327
White *v.* Bradford-on-Avon Union Assessment Committee	536
Whitechapel *v.* Stepney	132
Wildbore *v.* Rainsforth	349
Willesden Overseers *v.* Paddington Overseers	395
Williams, *Ex parte*	271
—— *v.* Bedminster Union	91, 277
—— *v.* Jones	93
—— *v.* Llangeineven	89
—— *v.* London and North Western Rail. Co.	76
Wilson *v.* Macmath	325
Wise's Case	12
Woodcock *v.* Gibson	343
Woodford and Lilburn, Case of	114
Woodstock Union *v.* Shipston-on-Stour Union	174, 241
Wookey *v.* Hinton Blewet	131
Woolwich Churchwardens *v.* Robertson	288
Worcestershire County Council *v.* Worcester Union	31, 34
Worcester (Mayor of) *v.* Droitwich	100
Worcester *v.* St. Clements	95
Worge *v.* Rolfe	308, 507
Workington Overseers, *Ex parte*	209
Worth *v.* Newton	336, 339
Wring *v.* Mill	13
Yates or Almond *v.* Chorlton-upon-Medlock	17
Ystradyfodwg and Pontypridd Main Sewerage Board *v.* Newport	84

THE

STATUTES IN FORCE

RELATING TO

THE POOR.

POOR RELIEF ACT, 1601.

43 ELIZ. Chap. 2.

An Act for the Relief of the Poor.*

Overseers for the poor, their office, &c.

Be it enacted by the authority of this present Parliament, that the churchwardens of every parish, and four, three, or two substantial householders there, as shall be thought meet, having respect to the proportion and greatness of the same parish and parishes, to be nominated yearly in Easter week, or within one month after Easter, under the hand and seal of two or more justices of the peace in the same county, whereof one to be of the quorum, dwelling in or near the same parish or division where the same parish doth lie, shall be called overseers of the poor of the same parish; and they, or the greater part of them, shall take order from time to time, by and with the consent of two or more such justices of peace as is aforesaid, for setting to work the children of all such whose parents shall not, by the said churchwardens and overseers, or the greater part of them, be thought able to keep and maintain their children; and also for setting to work all such persons, married or unmarried, having no means to maintain them, use no ordinary and daily trade of life to get their living by; and also to raise weekly or otherwise (by taxation of every inhabitant, parson, vicar, and other, and of every occupier of lands, houses, tithes impropriate, or propriations of tithes, coal mines or saleable underwoods in the said parish, in such competent sum and sums of money as they shall think fit,) a convenient stock of flax, hemp, wool, thread, iron, and other ware and stuff, to set the poor on work; and also competent sums of money for and towards the necessary relief of the lame, impotent, old, blind, and such other among them being poor, and not able to work; and also

Who shall be taxed towards the relief of the poor.

A convenient stock shall be provided to set the poor on work.

* This Act is reprinted here from the Queen's Printers' Copy, published in 1892.

Sect. 1.

for the putting out of such children to be apprentices, to be gathered out of the same parish, according to the ability of the same parish, and to do and execute all other things, as well for the disposing of the said stock, as otherwise concerning the premises, as to them shall seem convenient; which said churchwardens and overseers so to be nominated, or such of them as shall not be let by sickness or other just excuse, to be allowed by two such justices of peace or more as is aforesaid, shall meet together at the least once every month, in the church of the said parish, upon the Sunday in the afternoon after divine service, there to consider of some good course to be taken, and of some meet order to be set down in the premises; and shall within four days after the end of their year, and after other overseers nominated as aforesaid, make and yield up to such two justices of peace as is aforesaid a true and perfect accompt of all sums of money by them received, or rated and sessed and not received, and also of such stock as shall be in their hands or in the hands of any of the poor to work, and of all other things concerning their said office; and such sum or sums of money as shall be in their hands shall pay and deliver over to the said churchwardens and overseers newly nominated and appointed as aforesaid, upon pain that every one of them absenting themselves without lawful cause as aforesaid from such monthly meeting for the purposes aforesaid, or being negligent in their office or in the execution of the orders aforesaid, being made by and with the assent of the said justices of peace or any two of them before mentioned, to forfeit for every such default of absence or negligence twenty shillings.

The overseers shall meet once every month and accompt.

Penalty 20*s*.

CHURCHWARDENS.

Note.

Churchwardens of all common law parishes were *ex officio* overseers of the poor of the parish, and the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 12, provides that the same person may hold jointly the offices of churchwarden and overseer.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (2), the churchwardens of every rural parish shall cease to be overseers, and an additional number of overseers may be appointed to replace the churchwardens; and references in any Act to the churchwardens and overseers shall as respects any rural parish, except so far as those references relate to the affairs of the church, be construed as references to the overseers.

Churchwardens of a township which was a perpetual curacy maintaining its own poor, and was independent of the parish at large in all respects except that it contributed to the repair of the parish church, were held not to be overseers by virtue of their office (*Reg.* v. *Yorks N.R. JJ.*, 6 A. & E. 863; 6 L. J. M. C. 110).

OVERSEERS—APPOINTMENT—*How Questioned.*

Appeal.

An irregular appointment of overseers is good, unless appealed against (*Penney* v. *Slade*, 5 Bing. N. C. 319).

The objection that a person appointed overseer is not a householder, must be taken on appeal to the sessions against the

OVERSEERS—APPOINTMENT—*How Questioned—continued.*

Sect. 1.

Note.

appointment (*Re Pudding Norton*, 33 L. J. M. C. 136; 10 L. T. (N. S.) 386; 12 W. R. 762).

The appointment as overseer of a person who is entitled to exemption from the office is not void, but is good until appealed against by the person claiming exemption (*Reg.* v. *Chester JJ.*, 4 Jur. 484).

Parishioners, as well as the persons appointed overseers, may appeal against the appointment (*Rex* v. *Forrest*, 3 T. R. 38).

An appeal to quarter sessions lies against an appointment of an overseer by a parish council (*Gillott* v. *Bodicote Parish Council*, [1896] 60 J. P. 442).

To state upon an appeal that those against whose acts the appellant complains are justices is so far an admission of jurisdiction (*Rex* v. *Fisher*; *Rex* v. *Towill*, Cald. 135).

Certiorari.

An appointment of overseers may be removed before an appeal to the sessions, for the rule laid down in Salk. 147 extends only to the case where there is a limited time for appealing, as to the next quarter sessions; but 43 Eliz. c. 2, is not to be restrained; consequently, it can never be said that the time for appealing is out. If an appeal from an appointment be lodged there can be no *certiorari* till the sessions have made a determination, and a *certiorari* brought pending such appeal will be superseded (*Case of the Borough of Warwick*, 2 Str. 991).

A *certiorari* lies to remove an order appointing overseers, although 43 Eliz. c. 2, s. 6, gives an appeal, and no appeal has been made (*Rex* v. *Harman*, Andr. 343; *Rex* v. *Stanley*, Cald. 172; but see *Rex* v. *St. Alban's JJ.*, 3 B. & C. 698, and cases there cited).

An appointment cannot be confirmed on a *certiorari* until after next sessions, as that would take away the right of appeal (*Rex* v. *Houlditch*, 1 Bott., 6th ed., pl. 71).

The court will not quash an appointment of overseers after the third year has expired (*Rex* v. *Butler*, 1 W. Bl. 649).

Where the appointment is made without any foundation to support it, the court will quash the order without giving the parties the opportunity of appealing to quarter sessions; but where the order is good on the face of it, and the objection is that the appointment is bad for reasons not appearing on the order, the court will, in its discretion, refuse a *certiorari*, and leave the parties to appeal to the sessions: thus an appointment by justices of overseers for a place for which overseers could not legally be appointed was removed by *certiorari* without allowing an appeal against it to the quarter sessions; and the court went into the question upon affidavit, whether the place for which the appointment was made was a township or vill; and as it appeared by the affidavits that it was not, and was not stated to be such, or that it was reputed to be such, the court quashed the appointment (*Rex* v. *Standard Hill*, 4 M. & S. 378); but on an objection to the appointment of an overseer upon the ground that he was not a householder, it was stated that the proper way of making such objection was by appeal to the sessions, and the court, therefore, in the exercise of its discretion, refused a *certiorari* to bring up the appointment (*Re Pudding Norton*, 33 L. J. M. C. 133; 10 L. T. (N. S.) 386; 12 W. R. 762, *supra*).

A notice of an application for a *certiorari* to remove an order

OVERSEERS—APPOINTMENT—*How Questioned—continued.*

Sect. 1.

Note.

appointing overseers, signed "E. L., assistant overseer," and not stating who are the parties making it, is bad. An affidavit of service of such a notice should specify not only the names of the individuals served, but that they are the parties by or upon whom the order was made (*Reg.* v. *Salop JJ.* or *Shrewsbury and Salop JJ.*, 10 L. J. M. C. 8; 9 D. P. C. 501; S. C. *Reg.* v. *How*, 11 A. & E. 159).

Quo warranto.

A *quo warranto* information does not lie against an overseer (*Reg.* v. *Daubney*, 1 Bott., 6th ed., pl. 358).

OVERSEERS—APPOINTMENT—*By whom Appointed.*

By justices.

By this statute the justices of the county had the exclusive right of appointing all overseers within the county, except as provided in sects. 8, 9, *infra*.

By the Poor Law (Overseers) Act, 1849 (12 & 13 Vict. c. 8), s. 1, in every city, town corporate, or borough, the justices of the peace having jurisdiction therein have the exclusive right of appointing the overseers of the poor of the several parishes, &c., within the said cities, towns corporate, or boroughs respectively, in like manner as the justices of any county have in respect of the overseers of the poor of any parish within such county.

By the Justices Jurisdiction Act, 1852 (15 & 16 Vict. c. 38), after reciting, *inter alia*, the above statute, 12 & 13 Vict. c. 8, it is provided that "in any city or borough, all justices of the peace, whether of such city or borough, or of the county, riding, or division comprising the same or adjoining thereto, who shall otherwise have jurisdiction to act in any matter arising within such city or borough, shall be deemed to be competent to act therein under and by virtue of the said statutes in all respects."

County justices have jurisdiction to appoint overseers for a parish comprised in a borough, under the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 154, where there is no separate court of quarter sessions, and they may make such appointment at their own petty sessions for the division in which such parish is included (*Pember* v. *Evans*, 21 J. P. 438).

By parish councils or meetings.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (1), the power of appointing overseers for a rural parish is transferred from justices to the parish council, who are to give written notice of such appointment to the board of guardians; by sect. 19 (5), in small rural parishes the appointment is transferred to the parish meeting; and by sect. 52 (5) all enactments in any Act relating to the powers, duties, or liabilities of justices transferred from justices to a parish council or parish meeting, are to be construed as if any reference therein to justices referred to the parish council or parish meeting as the case requires.

By councils of boroughs or urban districts.

By the Local Government Act, 1894, s. 33, the Local Government Board may make an order conferring on the council or some other representative body within a borough or urban district the appointment of overseers.

By guardians.

By the Local Government Act, 1894, s. 50, if, in the case of a rural parish or of any urban parish in respect to which the power of appointing overseers has been transferred. notice of the appointment of overseers is not received by the guardians of the poor law union comprising the parish within three weeks after April 15th, or

OVERSEERS—APPOINTMENT—*By whom Appointed—continued.*

Sect. 1.

Note.

after the occurrence of a vacancy in the office of overseer, as the case may be, the guardians shall make the appointment or fill the vacancy, and any overseer appointed by the guardians shall supersede any overseer previously appointed whose appointment has not been notified.

OVERSEERS—APPOINTMENT—*Number to be Appointed.*

As by this statute the number of overseers to be appointed in addition to the churchwardens for each parish is to be not less than two nor more than four; an order of justices appointing one overseer alone for a township (*Rex* v. *Clifton*, 2 East, 168; *Reg.* v. *Cousins*, 4 B. & S. 849; 33 L. J. M. C. 87; 9 L. T. (N. S.) 686; 10 Jur. (N. S.) 722), or more than four for a parish (*Rex* v. *Loxdale*, 1 Burr. 445; *Rex* v. *Harman*, 2 Sess. Ca. 201; Andr. 343), was bad. The superior limit of four is still maintained; but by the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 11, if two overseers cannot be conveniently appointed from the inhabitant householders in any parish, the justices may appoint one overseer only, and if there is no such householder liable or fit to be appointed, they shall appoint some inhabitant householder of an adjoining parish willing to serve to be such overseer, either with or without an annual salary to be paid out of the poor rate of the parish.

Four overseers may be appointed for a parish, although a local Act directs that only two shall be appointed (*Rex* v. *Pinney*, 2 B. & C. 322; 2 D. & R. 578).

OVERSEERS—APPOINTMENT—*Time for Appointing.*

By justices.

By the Poor Law (Overseers) Act, 1814 (54 Geo. 3, c. 91), the appointment of overseers is to be made on March 25th or within fourteen days thereafter. But this is directory only, and an appointment made after the fourteen days is a good appointment (*Reg.* v. *Sneyd*, 9 D. P. C. 1001; 5 Jur. 962; *Rex* v. *Sparrow*, 2 Str. 1123; *Reg.* v. *Staffordshire JJ.*, 10 L. J. M. C. 166).

By parish councils or meetings.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 3 (4), (7), and Sched. I., Pt. 2, r. (3), in a rural parish, the parish council shall in every year, on or within seven days after April 15th (which is the ordinary day of coming into office of councillors), hold an annual meeting at which the first business shall be to elect a chairman and to appoint overseers; and by *Ib.* Sched. I., Pt. 1, r. (1), in a parish where the overseers are appointed by the parish meeting, the appointment should be made at the annual meeting held on March 25th, or within seven days before or after that day; by *Ib.* r. (7), a poll may be demanded by any parochial elector in case of a resolution respecting the appointment of an overseer.

OVERSEERS—APPOINTMENT—*Casual Vacancies.*

By justices.

By the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 3, if an overseer die, or remove from the place for which he was appointed, or become insolvent, before the expiration of his office, two justices of the peace, on oath thereof made, may appoint another overseer in his stead, who shall continue in office until new overseers are appointed.

By parish council or meeting.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 5 (1), 19 (5), in a rural parish, the parish council, or if there is no

OVERSEERS—APPOINTMENT—*Casual Vacancies—continued.*

Sect. 1.

Note.

parish council, the parish meeting, shall, as soon as may be, fill any casual vacancy occurring in the office of overseer, and give notice thereof to the guardians.

OVERSEERS—APPOINTMENT—*Qualification and Exemption.*

By the Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 6, the justices in special sessions may appoint persons who do not reside in the parish to serve as overseers, provided such persons consent to be so appointed.

By the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 12, the same person may serve the offices of churchwarden and overseer.

Householders.

By this statute of Elizabeth, persons appointed overseers must be householders in the parish; but a person occupying a house in a parish, as a place of business merely, attending there daily, and his clerk living there, but he himself residing with his family elsewhere, is a householder within the meaning of the statute (*Rex* v. *Poynder*, 1 B. & C. 170; 2 D. & R. 258). And the statute mentions substantial householders; but where a township or vill contained but three houses, and the occupiers of all three were appointed overseers, the appointment was holden good, though two of them were but labourers and poor (*Rex* v. *Stubbs*, 2 T. R. 395).

A householder in a parish to be liable to serve as overseer must occupy as tenant of the premises; and, therefore, a servant who occupies a tenement of his master, in part payment of his services, and as subservient to the performance of his duties, and not merely as a matter of convenience, is not a householder within the meaning of the statute, and an appointment of two overseers, of whom he is one, is bad (*Reg.* v. *Spurrell*, L. R. 1 Q. B. 72; 35 L. J. M. C. 74; 12 Jur. (N. S.) 208).

The objection that the person appointed is not a householder must be taken at the sessions on appeal against the appointment (*Re Pudding Norton*, 33 L. J. M. C. 136; 10 L. T. (N. S.) 386).

Women.

A woman may serve the office of overseer (*Rex* v. *Stubbs*, 2 T. R. 395), though it was said that it was improper to appoint a woman when there are other persons more competent to serve (*Rex* v. *Chardstock*, Vin. Abr. 415).

Persons disqualified.

The following classes of persons are incapable of serving the office of overseer, and the appointment of any such person is void:—Masters of workhouses and relieving officers (13 & 14 Vict. c. 101, s. 6); assistant overseers of any parish (29 & 30 Vict. c. 113, s. 10); persons convicted of felony, fraud, or perjury (4 & 5 Will. 4, c. 76, s. 48); former officers convicted of purloining, embezzling, or wilfully wasting or misapplying any moneys or goods of the parish or union (*Ib.* s. 97); persons adjudged bankrupt, the disqualification lasting for five years after discharge, unless the adjudication is annulled, or a court grants a certificate on discharge that the bankruptcy was caused by misfortune without misconduct (46 & 47 Vict. c. 52, s. 32; 53 & 54 Vict. c. 71, s. 9); persons convicted or candidates reported guilty of corrupt practices at parliamentary (46 & 47 Vict. c. 51, ss. 3, 4, and 64) or municipal (47 & 48 Vict. c. 70, ss. 2, 3) elections, for seven years from date of conviction or report; persons engaged or directly or indirectly concerned in any contract for the

OVERSEERS—APPOINTMENT—*Qualification and Exemption —continued.*

Sect. 1.

supply of goods, &c., for the workhouse, or for the relief of the poor of the parish or union (12 & 13 Vict. c. 103, s. 6).

Note
Persons exempted.

The following classes of persons are exempt by statute from serving the office of overseer:—Teachers or preachers in holy orders or pretended holy orders (1 Wm. & M., sess. 1, c. 18, s. 5); dissenting ministers not engaged in any trade or business, or in any other employment, except that of schoolmaster (52 Geo. 3, c. 155, s. 9); members of the Royal College of Physicians (32 Hen. 8, c. 40); members of the Royal College of Surgeons of England in actual practice (18 Geo. 2, c. 15, s. 10; *R.* v. *Oxfordshire JJ.*, 16 J. P. 340); registered medical practitioners (21 & 22 Vict. c. 90, s. 35); registered dentists (41 & 42 Vict. c. 33, s. 30); apothecaries in actual practice (6 & 7 Wm. & M. c. 4, ss. 1, 2); postmaster-general and officers of the post-office (7 Will. 4 & 1 Vict. c. 33, s. 12); commissioners of income and property tax while holding a certificate from the commissioners of inland revenue (5 & 6 Vict. c. 35, s. 35); commissioners, collectors, officers, and persons employed under the authority of the commissioners of inland revenue in relation to inland revenue (53 & 54 Vict. c. 21, s. 8); commissioners, officers, clerks, or other persons acting in the management or service of the customs (39 & 40 Vict. c. 36, s. 9); men belonging to the army reserve (45 & 46 Vict. c. 48, s. 7); persons in the militia (45 & 46 Vict. c. 49, s. 41); royal naval volunteers (22 & 23 Vict. c. 40, s. 7); royal naval coast volunteers (16 & 17 Vict. c. 73, s. 8); inspectors under the Factory Acts (41 & 42 Vict. c. 16, s. 67); registrars of births, deaths, and marriages (7 Will. 4 & 1 Vict. c. 22, s. 18); officers of the regular forces on the active list are incapable of holding any office in any municipal corporation (44 & 45 Vict. c. 58, s. 146; 52 & 53 Vict. c. 3, s. 6); and though there is no statutory exemption of such officers from serving parochial offices, the incompatibility of such office with the duties of active service would undoubtedly confer a right to exemption.

The following classes of persons have been considered entitled to claim exemption from serving parochial offices:—Peers and members of Parliament (Gibs. Cod. 215); high sheriffs (*Stephenson* v. *Langston*, 1 Hagg. Cons. Rep. p. 380); aldermen of the city of London (*Rex* v. *Abdy*, Cro. Car. 585); practising solicitors (*Ib.*; *Rex* v. *Prouse*, Cro. Car. 389; *Norwich* (*Mayor of*) v. *Berry*, 4 Burr. 2109); practising barristers (*Rex* v. *Pordage*, or *Porditch*, 2 Keb. 578; 1 Sid. 431; 1 Mod. 22); officers of the superior courts (*Ex parte Jefferies*, 6 Bing. 195).

Generally a person is exempt from serving the office of overseer who holds an office under the Crown or otherwise, the duties of which require his personal attendance for their performance (*Ex parte Jefferies*, 6 Bing. 195).

The quarter sessions had discharged an order appointing as overseer a person who was an acting justice of the peace, and a lieutenant of marines on half-pay, stating that they *therefore* vacated the appointment; the Court of Queen's Bench refused to quash the order of quarter sessions, not on the ground that the office of justice of the peace, or the duties of an officer on half-pay entitled the justice and officer to exemption, but on the ground that though such circumstances might have weighed with the quarter sessions, they may have had other good reasons for discharging the order

OVERSEERS—APPOINTMENT—*Qualification and Exemption—continued.*

Sect. 1.

Note.

which they did not express (*Rex* v. *Gayer*, 1 Burr. 245; Cald. 241).

The appointment as overseer of a person who is entitled to exemption from the office is not void, but is good until appealed against by the person claiming exemption (*Reg.* v. *Chester JJ.*, 4 Jur. 484).

OVERSEERS—APPOINTMENT—*For what place they may be Appointed.*

Parishes and reputed parishes.

By this statute of Elizabeth overseers were to be appointed for parishes only; but as there were several places in England which were parishes by reputation, that is to say, parochial chapelries, entirely independent of the mother church as to sacraments, sepultures, &c., these were holden to be parishes within the meaning of the statute (*Nicholas* v. *Walter*, Cro. Car. 394).

But such places must be proved to have been reputed parishes at the time of the passing of the statute (*Hilton* v. *Paule*, Cro. Car. 92); and they must have appeared to have all parochial rights, and therefore to be entirely independent of the mother church (*Rudd* v. *Foster*, 4 Mod. 157).

In the parish of Whaplode, in Lincolnshire, there was a district called Whaplode Drove, having a chapel, which previously to 43 Eliz. c. 2, had all parochial rights, and its own churchwardens separately from the parish; the clergyman of the chapel was maintained by the rent of certain lands with which it was endowed, but the tithes of the district were paid to the vicar of the parish; the district had its own overseers of the poor, had a separate poor rate (the amount in the pound, however, being always the same as in the rest of the parish), and it maintained its outdoor poor separately, but there was no workhouse in the district, and the poor of the district requiring indoor relief were sent to the workhouse of the parish; at the end of every year the overseers of the district and those of the parish compared accounts, and those who had a surplus beyond their expenditure paid it over to the others. The court held that a separate rate for the district was bad, and that the district was not entitled to have separate overseers; the fund for the relief of the poor of both districts was in substance a joint fund, and there was only one workhouse, which showed that the district had not been separated from the parish under 14 Car. 2, c. 12; and the district could not be deemed to be in itself a parish or reputed parish at the time of the passing of 43 Eliz. c. 2, for in that case it must have had the entire separate maintenance of its own poor (*Reg.* v. *Clayton*, 13 Q. B. 354; 18 L. J. M. C. 129; 3 N. S. C. 494; 13 Jur. 406).

A district had always been treated as one poor law and highway parish, but there was evidence that there had formerly been two churches and two rectories, and for most ecclesiastical purposes the district had been treated as two parishes, the court held, that the district was still to be treated as one poor law parish, it having been at all events a reputed parish at the time of the passing of 43 Eliz. c. 2 (*Reg.* v. *Sharpley*, 23 L. T. 172; S. C. *Sharpley* v. *Mablethorpe*, 3 E. & B. 906; 24 L. J. M. C. 35; 18 J. P. 313; 18 Jur. 835).

Where it is doubtful whether a cathedral existed before or after the institution of civil parishes, which, according to Lord Coke, C.J.,

OVERSEERS — APPOINTMENT — *For what place they may be Appointed—continued.*

Sect. 1.

Note.

was in 1189, the presumption is, that the cathedral and precincts were from the first extra-parochial (*Braithwaite* v. *Hooke*, 26 J. P. 660).

It is a question of evidence whether two places are distinct and separate parishes, and therefore entitled to have overseers separately appointed for each (*Reg.* v. *Tombleson*, 27 J. P. 150).

There is no legal objection to the inference that a hamlet or township once extended into two parishes, and that it afterwards became annexed to the one parish for ecclesiastical purposes and continued to form part of the other parish for civil purposes (*Reg.* v. *Watson*, 37 L. J. M. C. 153; 18 L. T. (N. S.) 556).

Where a parish contained within itself a borough not co-extensive with it, a custom, which had existed since 43 Eliz. c. 2, of appointing separate churchwardens and overseers, and making separate rates for the borough, and for those parts of the parish which lay without the borough, was held to be invalid (*Rex* v. *Gordon*, 1 B. & Ald. 524).

Townships and vills.

By the Poor Relief Act, 1662 (13 & 14 Car. 2, c. 12), s. 21, overseers might be appointed for townships and villages (see notes to that statute).

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 22, separate overseers are not to be appointed for any township or vill which had no separate overseers at the passing of that Act.

Every parish, however, constituted under the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), shall, by sect. 6 of that Act, notwithstanding the prohibition in 7 & 8 Vict. c. 101, s. 22, be a parish for which an overseer shall be appointed; and parishes divided by the operation of the Local Government Act, 1894, become separate parishes as though they had been so constituted under the Divided Parishes and Poor Law Amendment Act, 1876, and an overseer may therefore be appointed for each part (56 & 57 Vict. c. 73, s. 1 (3)).

Extra-parochial places.

By the Extra-Parochial Places Act, 1857 (20 Vict. c. 19), provision was made for appointing overseers for extra-parochial places; but by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 27, extra-parochial places for which overseers had not, on December 25th, 1868, been appointed became annexed to the adjoining parish with which they had the largest common boundary.

OVERSEERS—APPOINTMENT—*Mode and Form of Appointment.*

By justices.

An appointment of overseers under this statute, 43 Eliz. c. 2, signed by two justices separately is bad (*Rex* v. *Forrest*, 3 T. R. 38; 1 R. R. 68); the justices making the appointment must be together when they sign and seal the appointment; and after an appointment of four overseers for a parish by the justices at one meeting they are *functi officio*, and no other magistrate can afterwards, upon the claim of one of the persons so appointed to be exempted, appoint another in his place (*Rex* v. *Great Marlow*, 2 East, 244). An irregular appointment may be quashed on *certiorari*, but the appointment of a person who claims to be exempted can only be discharged by appeal to quarter sessions (*Ib.*).

The justices are not bound to appoint as overseers nominees of

OVERSEERS—APPOINTMENT—*Mode and Form of Appointment —continued.*

Sect. 1.

Note.

the vestry of the parish; they must exercise their discretion, and therefore they must act jointly, and cannot sign the appointment one at one time and one at another (*Reg.* v. *Lancashire JJ.*, or *Reg.* v. *Hoole*, [1860] 29 L. J. M. C. 244; 2 L. T. (N. S.) 472; 8 W. R. 588; 24 J. P. 438).

A local Act provided that the ratepayers of a parish should "in vestry assembled, or the major part of them then present, nominate" persons to serve the office of overseers, from whom the county justices were to select the overseers:—Held, that the nomination was not confined to the ratepayers only who were present at the vestry meeting, but that a poll might be granted, &c., at which all ratepayers might vote (*Reg.* v. *Surrey JJ.*, [1840] 12 A. & E. 139; 4 P. & D. 61; 9 L. J. M. C. 117).

The appointment must be by a majority of the justices present at the special sessions. At a special sessions for appointing overseers of the poor, three of the justices present took upon themselves to appoint overseers of the parish of Manchester, without consulting the several other justices who were present at that time; and for this conduct a rule *nisi* for a criminal information was obtained; but upon showing cause, it appearing that this was done from a mistake of the justices as to their authority, the court discharged the rule, but without costs; they however desired it to be understood that all the justices present at such special sessions, when overseers are appointed, must be consulted upon the appointment, and the appointment must be by a majority of them (*Reg.* v. *Lancashire JJ.*, M. S. T. 1840). Until the appointment is quashed, however, the acts of overseers irregularly appointed will be valid; for instance, a rate made by such overseers is valid, and may be enforced (*Penney* v. *Slade*, 5 Bing. N. C. 319; 7 Scott, 285).

All of the overseers need not be appointed at the same special sessions; each one of them may be appointed separately by a separate instrument (*Rex* v. *Morris*, 4 T. R. 550).

An appointment of overseers "for the present year," is sufficient, as that shall be intended to mean the overseers' year (*Rex* v. *Helling*, 3 Burr. 1904). So "for one whole year" (*Rex* v. *Jones*, 1 Bott., 6th ed., pl. 35), or "for one year next ensuing" (*Rex* v. *Burder*, 4 T. R. 778; *Rex* v. *Stubbs*, 2 T. R. 395), have been holden to be sufficient. A copy of this appointment should be served on each of the overseers named in it; and the presumption at law is that the appointment will be in the custody of some of the overseers, who are responsible for all acts done under it (*Rex* v. *Stoke Golding*, 1 B. & Ald. 173).

By district or parish councils.

When the appointment is made by an urban district or parish council, the appointment will be made by resolution of the council, and the form of appointment should be executed under the seal of the district council, or under the hands and seals of the chairman and two members of the parish council present when the resolution was passed (see Local Government Act, 1894 (56 & 57 Vict. c. 73), Sched. I., Pt. 3, r. (4)).

OVERSEERS—APPOINTMENT—*Appointment, how Enforced.*

Indictment for refusal to serve.

An overseer cannot resign his office; and if any overseer duly appointed refuse to serve the office, he will be guilty of a misde-

OVERSEERS — APPOINTMENT — *Appointment, how Enforced — continued.*

Sect. 1.

Note.

meanour at common law, for which he may be indicted (*Rex* v. *Jones*, 2 Str. 1146). An indictment that the defendant was appointed overseer of the poor of a parish, "and that he afterwards refused to take the office of overseer of the parish to which he was so appointed" is good (*Rex* v. *Burder*, 4 T. R. 778).

OVERSEERS—RELIEF OF THE POOR.

What persons are entitled to relief.

The method of relieving the poor by setting them to work as directed by this statute was extended by various Acts authorizing allotments for the poor, which might be utilized either by setting the poor to work on them, or by letting them to poor persons; these statutes are the Poor Relief Act, 1819 (59 Geo. 3, c. 12), ss. 12, 13, 25; Poor Relief Act, 1831 (1 & 2 Will. 4, c. 42); Crown Land Allotments Act, 1831 (1 & 2 Will. 4, c. 59); Allotments Act, 1832 (2 & 3 Will. 4, c. 42); Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 4. The more recent Allotment Acts provide not for the relief of the poor, but the acquisition of land to be let to industrious poor persons, cottagers, labourers, or journeymen.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 54, the ordering, giving, and directing of relief to the poor is vested in the guardians of the poor, and it is not lawful for overseers to give other relief than such as shall be ordered by the guardians, except in cases of sudden and urgent necessity; or in cases where medical relief is ordered by justices; and by sect. 52 the relief given to able-bodied paupers and their families out of the workhouse is to be given according to the rules and regulations of the Poor Law Commissioners (now the Local Government Board), and relief contrary to such rules and regulations is to be disallowed.

The provisions of the Poor Law Amendment Act, 1834, did not alter or enlarge the class of persons entitled to poor law relief, who are the same as those mentioned in the statute of 43 Eliz. c. 2; they only altered the mode of administering such relief (*Att.-Gen.* v. *Merthyr Tydvil Union*, [1900] 1 Ch. 516); 69 L. J. Ch. 299; 82 L. T. 662; 48 W. R. 403; 64 J. P. 276.

Able-bodied men who can, if they choose, obtain work which will enable them to maintain themselves, their wives and families, but who, by reason of a strike or otherwise refuse to accept that work, are not entitled to relief, except that, if they become physically incapable of working, the guardians may, to prevent their starving, give them temporary relief. But in that case the guardians should prosecute them under the Vagrancy Act, 1824 (5 Geo. 4, c. 83), s. 3, as "idle and disorderly persons." The wives and children of such men, however, are entitled to relief, though they themselves are not (*Ib.*).

The following matters and decisions appear from the above decision to be applicable to relief by guardians to much the same extent as they were applicable to relief given by justices and overseers, but negligence in relieving the poor is in general to be attributed to the relieving officer rather than to the guardians personally, and he is indictable for such negligence (*Reg.* v. *Curtis*, 15 Cox C. C. 746; *Clark* v. *Joslin*, 27 L. T. (N. S.) 762).

OVERSEERS—RELIEF OF THE POOR—*continued.*

Sect. 1.

Note.

Resolutions of the judges.

In Lambard's Eirenarchia [1619], pp. 207—209, certain resolutions are set out which "are commonly ascribed to the late Queen's Majestie's Justices at Westminster," showing the contemporaneous interpretation placed upon this Act and the Vagrant Act, 39 Eliz. c. 17. The 8th, 9th, and 10th Resolutions referring to the relief to be given to the poor under this Act are as follows :—

* * * * *

"8. If the Parents bee able to worke, and may have worke, they are to find their children by their labour, and not the Parish : but if they be overburthened with children, it shall bee a very good way to procure some of them to be placed Apprentices according to the Statute."

"9. No man is to bee put out of the Towne where hee dwelleth, nor to be sent to their place of Birth (or last Habitation), but a vagarant Rogue, nor to bee found by the Towne, except the partie bee impotent, but ought to set themselves to labour, if they bee able and can get worke; if they cannot, the overseers must set them to labour; And so of them that have or shall have houses, when their estates be expired; And Servants whose times of service are ended, though they cannot get houses; for they must provide themselves houses anew if they be not impotent."

"10. Such persons as be of any Parish and have able bodies to worke, and bee no wanderers abroad out of the Parish, though they refuse to worke at such wages as is taxed (or commonly given) in these parts, are notwithstanding not to be sent to their place of Birth, or last dwelling by the space of a yeare, but to the house of Correction, upon consideration had of both the Statutes, of the poore and Rogues. But if they have any lawfull means to live by, though they be of able bodies, and refuse to work, yet are they not to be sent to the house of Correction."

* * * * *

Order must show person relieved to be "poor and impotent."

An order to pay 3*s.* weekly to A. by the parish of Hyworth "so long as he shall continue poor" was quashed, on the ground that it did not allege that the person relieved was *poor and impotent*, and that by this statute of Elizabeth it ought to appear that he was impotent (*Rex* v. *Hyworth*, 1 Str. 10; Sett. & Rem. 75; 1 Sess. Cas. 108; S. P. *Rex* v. *Stoke-Ursey* or *Stoke-Guerry*, 1 Sess. Cas. 115; *Rex* v. *Tipper*, 1 Sess. Cas. 136; *Rex* v. *Gully*, 10 Mod. 307).

An order of the justices of the peace for the maintenance of a poor woman, was confirmed, though it appeared she was able of body to work; but the justices of the peace are judges of that (*Wise's Case*, Ventr. 69).

Jurisdiction of quarter sessions.

The justices in quarter sessions had no jurisdiction to make an original order for the relief of a pauper (*Rex* v. *Winship*, 5 Burr. 2677); nor did an appeal lie to the sessions against an order for relief (*Rex* v. *Devon JJ.*, [1826] 4 M. & S. 421; *Rex* v. *North Shields*, Cald. 68).

Liability of relieving officer.

If an overseer do not provide for the poor, he is indictable; and if he relieve the poor when there is no necessity for it, it is a misdemeanour (*Tawnay's Case*, 1 Bott., 6th ed., pl. 371). If the

OVERSEERS—RELIEF OF THE POOR—*continued.*

Sect. 1.

Note.

overseers are guilty of neglect in providing for the poor, they are indictable (*Rex* v. *Wetherill*, Cald. 432).

Mode of relief.

"According to the poor laws, he who is able to labour is to be maintained by labour only, and nothing is to be provided for him but a means of employment" (*Rex* v. *Yorks. N.R. JJ.*, [1823] 2 B. & C. at p. 292, *per* Best, C.J.).

Overseers are bound to endeavour to find work for the able-bodied poor who are out of employment (*Rex* v. *Collett*, 2 B. & C. 324).

Poor rates a statutable fund.

With regard to the funds which may be raised under this statute "the overseer is a statutable officer, dealing with a statutable fund, and accountable for its application to statutable purposes. The language of the statute leaves no doubt. The relief and the employment of the chargeable poor are its objects: the fund is created for them, and cannot be diverted from them, unless to objects specifically engrafted on them by subsequent statutes" (*Rex* v. *Stewart*, 12 A. & E. p. 777, *per* Lord Denman, C.J.).

Casual poor.

As to the liability of overseers for the relief of casual poor, see notes to the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 2, *post.*

OVERSEERS—LIABILITY ON CONTRACTS.

As to the power of overseers to bind their successors by their contracts, see the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 1, and notes thereon.

If all the churchwardens and overseers join in an order for goods to be supplied to the poor, they are all jointly liable: and even where an assistant overseer also joined in such an order, he was holden to be jointly liable with the others (*Kirby* v. *Bannister*, 5 B. & Ad. 1069; 3 N. & M. 119). But if the order be given by one only, then it must depend upon the particular circumstances of the case, whether the others are jointly liable with him; if the goods were furnished upon the credit of the overseer alone who ordered them, he alone would be liable; but if the credit were given to the parish, then his co-overseers, &c., would be jointly liable with him (*Emden* v. *Titchmarsh*, 1 A. & E. 691; 3 N. & M. 712).

Where at the request of one overseer, but without the knowledge of the others, a party paid several sums to a pauper residing out of the parish, and no demand of repayment was made upon the overseers generally until after they were out of office, it was holden to be a question proper to be left to the jury to say whether under these circumstances the party ought not to be considered as having relied upon the sole responsibility of the overseer at whose request the payment was made (*Malkin* v. *Vickerstaff*, 3 B. & Ald. 89; *Wring* v. *Mill*, 1 B. & Ald. 104).

If one overseer borrows money on account of his parish, he alone is liable for the repayment of it: his co-overseers are not; for it is no part of the duty of an overseer to borrow money for parochial purposes, and therefore no contract to repay it can be implied on the part of those who were not actual parties to the borrowing of it (*How* v. *Keech*, 1 Bott., 6th ed., pl. 381; *Massey* v. *Knowles*, 3 Stark. 65; *Leigh* v. *Taylor*, 7 B. & C. 491).

OVERSEERS—LIABILITY ON CONTRACTS—*continued.*

Sect. 1.

Note.

An overseer retaining a solicitor to conduct parish business is not personally liable unless the retainer be specially worded to make him so (*Welby* v. *Brown*, 11 J. P. 602).

Any act required to be done by overseers or by churchwardens and overseers may legally be done by a majority of them (*Rex* v. *Beeston*, 1 Bott., 6th ed., pl. 473; *Rex* v. *Warwickshire JJ.*, 6 A. & E. 873; 2 N. & P. 153); on the other hand, if a notice is to be served upon them, a service upon any one of them will be sufficient (*Ib.*).

OVERSEERS—ACCOUNTS.

As to overseers' accounts see the statutes and cases noted under the Poor Relief Act, 1743 (17 Geo. 2, c. 38), *post.*

POOR RATE—WHO LIABLE TO BE RATED.

INHABITANTS.

By this statute "every inhabitant" of the parish shall be taxed to the poor rate: that is to say, every person permanently residing and sleeping in the parish. Formerly every person residing within a parish might have been rated there in respect of visible property, locally situate within the same parish, and producing profit. He was rateable for his stock-in-trade within the parish, for it was local and visible property, of which he made profit (*Reg.* v. *Lumsdaine*, 10 A. & E. 157; 2 P. & D. 219; 3 Jur. 360; *Rex* v. *Ambleside*, 10 East, 380). So he was formerly rateable for a ship, of which he made profit, if its place of domicile were within the parish in which he resided (*Rex* v. *Jones*, 8 East, 451). Now by the Poor Rate Exemption Act, 1840 (3 & 4 Vict. c. 89), overseers are prohibited from taxing any inhabitant of a parish or township, as such inhabitant, in respect of his ability derived from the profits of stock-in-trade or any other property, for or towards the relief of the poor.

PARSON.

The parson is liable to be rated for his parsonage and glebe, and also for his tithes, as to which see *infra*, "Tithes."

The incumbent of a district church, who is allowed a mere annuity by the rector of a parish church, secured by a rent-charge upon the emoluments of the rectory, is not rateable in respect of his annuity (*Frend* v. *Tolleshunt Knights*, 1 E. & E. 753; 28 L. J. M. C. 169; S. C. *Reg.* v. *Frend*, 33 L. T. 89.

OWNER.

An owner cannot in general be rated for the house or land that he lets to a tenant (see *Lobban* v. *Cook*, 27 L. J. M. C. 254).

Mining rents.

In the case of a mine of lead, tin, or the like, for which the occupying tenant was formerly not liable to be rated, his landlord could not be rated for the rent paid to him for it, whether the rent were reserved in money (*Rex* v. *Wellbank*, 4 M. & S. 222; *Rex* v. *Bishop of Rochester*, 12 East, 353), or in metal from the mine after being smelted, &c. (*Rex* v. *Earl Pomfret*, 5 M. & S. 139); but if the landlord instead of receiving a rent, or in addition to it received from the tenant a portion of the ore itself, he was rateable for that, as being a portion of the land itself, for which the tenant was not rated (*Rex* v. *St. Agnes*, 3 T. R. 480; *Rex* v. *St. Austell*, 5 B. & A. 692;

POOR RATE—WHO LIABLE TO BE RATED—*Owner—continued.*

Sect. 1.
Note.

Rowls v. *Gells*, Cowp. 451), and even since the Rating Act, 1874 (37 & 38 Vict. c. 54), he is still liable to be rated if his dues are wholly reserved in kind.

Quit rents, &c.

A lord of the manor is not rateable for the quit-rents and casual profits of the manor (*Rex* v. *Vanderwall*, 2 Burr. 991).

Double occupancy.

If a man having a towing-path upon his land, producing a profit to him, lets the herbage and pasture of the towing-path to another (*Rex* v. *Mayor of London*, 4 T. R. 21); or having a coal mine under his land, works the coal mine himself, and lets the surface land to another (*Rex* v. *Wellbank*, 4 M. & S. 222): in these cases the landlord is rateable for so much of the land as he occupies, and the tenant of the surface land for his occupancy (see *Guest* v. *East Dean*, L. R. 7 Q. B. 334; 41 L. J. M. C. 129; 26 L. T. (N. S.) 432; 20 W. R. 332; 36 J. P. 342). In one case it was holden that although the proprietors of a theatre were rated for the whole of it, yet a person who rented of them a private box in the theatre was liable to be rated for it also (*Reg.* v. *St. Martin's-in-the-Fields*, 3 Q. B. 204; 2 G. & D. 426; 11 L. J. M. C. 112; 6 Jur. 850). This decision, indeed, was upon a local Act, 10 Geo. 3, c. 75, but in its terms very similar to the 43 Eliz. c. 2.

Hereditaments let under void contract.

The Marquis of Salisbury being rated as the owner and occupier of Ware Bridge, where he received certain tolls, appealed on the ground that he had let the tolls to a tenant, who was the person to be rated; the court held that as the letting was by parol, and the tolls could only pass by deed, the demise was a nullity, and the marquis was rightly rated as occupier (*Reg.* v. *Marquis of Salisbury*, 8 A. & E. 716; 3 N. & P. 476).

Where licensee only in possession.

The owner of grass lands advertised a sale by auction of the grass for a period of ten months, one condition being that the purchaser should keep the fences in repair, and lay down manure, all taxes being paid up to the time of sale, and the owner to continue to pay these taxes; *held* that the purchaser was not the rateable occupier, but that the owner was so, and the transaction was only a licence to use the land (*Mogg* v. *Yatton Overseers*, 6 Q. B. D. 10; 50 L. J. M. C. 17; 29 W. R. 74; 45 J. P. 324).

House let in lodgings.

By the Representation of the People Act, 1867 (30 & 31 Vict. c. 107), s. 7, where a dwelling-house or tenement situate in a parish wholly or partly within a borough, is wholly let out in apartments or lodgings not separately rated, the owner is rateable in respect thereof to the poor rate.

Small tenements.

By the Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 19, vestries were empowered to direct owners of tenements let at a rent of between 6*l.* and 20*l.* a year for short terms, to be rated instead of the occupiers; this enactment has, by the course of subsequent legislation, been impliedly repealed (*West Ham* v. *Fourth City Mutual Building Society*, [1892] 1 Q. B. 654; 61 L. J. M. C. 128; 66 L. T. 350; 40 W. R. 446; 56 J. P. 438), and is replaced by the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), which contains similar but more extensive provisions (see notes to that Act, *post*).

OCCUPIER.

Subject to the exceptions mentioned *infra*, the person who is in the actual possession of the land, &c., by himself or his servants, is

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1. Note.

the occupier; and actual occupation irrespective of title is the only circumstance which determines rateability (*Kitts* v. *Liskeard*, L. R. 10 Q. B. 7; 44 L. J. M. C. 23; 31 L. T. (N. S.) 601; 23 W. R. 72).

Easements.

The occupier must have some interest in the land occupied to be liable to be rated, and therefore a person who only has an easement in or over land is not liable to be rated in respect thereof (*Rex* v. *Weaver Navigation*, 7 B. & C. 70 n.; *Rex* v. *Mersey and Irwell Navigation*, 9 B. & C. 95; *Doncaster Union* v. *Manchester, Sheffield and Lincoln Rail. Co.*, 71 L. T. 585).

Bulk valuation.

Where property consists of land and houses, a person is only liable to be rated for the land, if he does not actually occupy the houses. An owner having evicted tenants from his land, himself occupied the land, but did not occupy the buildings on the land; a bulk valuation having been made of the land and buildings, the owner did not appeal against the assessment, but in an action for recovery of the rate, it was held that the rate was made without jurisdiction, and, although no appeal against the assessment had been made, it was not recoverable (*New Ross Union* v. *Bryne*, 30 L. R. Ir. 160; and see *Millward* v. *Caffin*, 2 W. Bl. 1330; *Wait's Case*, 1 A. & E. 264; *Charleton* v. *Alway*, 11 A. & E. 993; *London and North Western Rail. Co.* v. *Buckmaster*, L. R. 10 Q. B. 70, 444; *Manchester* v. *Headlam*, 21 Q. B. D. 96).

Allotments. Persons deemed to be occupiers by statute.

In the case of poor allotments, the persons who are to be deemed "the occupier" are denoted by statute. By the Inclosure Act, 1845 (8 & 9 Vict. c. 118), s. 109, the allotment wardens are, for the purposes of all rates and taxes, to be deemed the occupiers of such allotments. By the Poor Allotments Management Act, 1873 (36 & 37 Vict. c. 19), s. 13, in all cases in which lands shall be let under that Act or under the provisions of the Allotments Act, 1832 (2 Will. 4, c. 42), the allotment trustees or the overseers and churchwardens or other functionaries in whom the same may be vested, are, for all purposes of rates and taxes, to be deemed the occupiers of such lands as shall from time to time be so let. By the Allotments Extension Act, 1882 (45 & 46 Vict. c. 80), s. 13, the trustees of charity lands let as allotments under that Act are, for the purposes of all rates, taxes, tithes, and tithe rentcharge to be deemed to be occupiers of the allotments. And by the Allotments Act, 1887 (50 & 51 Vict. c. 48), s. 7 (2), the sanitary authority are, for the purpose of all rates, taxes, &c., to be deemed the occupiers of allotments let under that Act.

Unused land.

The owner of uninclosed land who affixed to a tree on the land a notice that the land was to be let, but made no other use of the land, was held not liable to be assessed as occupier thereof (*Smith* v. *New Forest Union*, 61 L. T. 870; 54 J. P. 324).

Grass crops.

Where the owner of grass lands (being unlet) entered on July 7th and cut the grass, and stacked the hay, offering to pay a current rate as from July 7th, it was held, on a case stated, that the occupation commenced only from July 7th, and that the overseers had no power retrospectively to enter the owner as occupier of the land before that date (*Pembroke* v. *Wye*, 47 J. P. 359).

Persons liable to repair highways *ratione tenuræ.*

The occupiers of lands which are liable, *ratione tenuræ*, to the maintenance of their own highways, are exempt from contributing to a poor rate levied by the overseers for the purposes of the relief of the poor, and to meet a precept of a highway board of the

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1.

Note.

district under 27 & 28 Vict. c. 101, s. 32, to the extent that they are assessed in respect of the repairs of the highways (*Reg.* v. *Heath*, L. R. 1 Q. B. 218; 35 L. J. M. C. 113; 13 L. T. (N. S.) 669; 30 J. P. 182).

Occupation by servants, agents, or caretakers.

If a man occupy land, &c., by himself or his servant, he is rateable in respect of it. The general rule is that the servant is not rateable for it. Where the occupation is necessary for the performance of services, and the occupier is required to reside in a particular dwelling in order to perform those services, the occupation being strictly ancillary to the performance of the duties which the occupier has to perform, the occupation is that of a servant, and he is not rateable for it, but the master is (*Smith* v. *Seghill*, L. R. 10 Q. B. 422; 44 L. J. M. C. 114; 32 L. T. (N. S.) 859; 23 W. R. 745).

A surgeon was required to occupy a residence within Greenwich Hospital for the more efficient performance of his duties as a surgeon, and was therefore held to occupy as a servant (*Dobson* v. *Jones*, 5 M. & G. 112); while a ropemaker who was permitted to reside in a house, not for the purpose of performing his duties, but as part remuneration of his services, was held to occupy as a tenant (*Hughes* v. *Chatham Overseers*, 5 M. & G. 54).

The owner of the lighthouse at Tynemouth was entitled to certain tolls or duties for vessels passing it, and kept a servant there for the purpose of attending to the lights, he himself residing elsewhere: the servant being rated for his occupation of two rooms in the lighthouse, the court held that he was not liable (*Rex* v. *Tynemouth*, 12 East, 46).

A woman was hired by the Philanthropic Society (a society for the care and maintenance of the children of convicts), as matron or mistress of the female children, who were to be instructed by her, and apprenticed to her if required; she was to have a house free of rent, taxes, &c., provisions, &c., and wages at the rate of 20*l.* a year; a house was provided, and she went into it with thirty of the female children, whom she took care of and instructed; she had no distinct apartment in the house for herself but a bedchamber; her family were not allowed to reside with her, and she had no advantage or emolument from her situation other than what was stipulated for by the agreement when she was hired: being rated to the poor, as occupier of this house, the court held that she was not rateable (*Rex* v. *Field*, 5 T. R. 587).

A caretaker in the intervals of letting an empty house is not rateable though he live in it with his wife and children, for his occupation is that of servant (*Yates* or *Almond* v. *Chorlton-upon-Medlock*, 48 L. T. 872; 47 J. P. 630); but the owner of a house which is to let, who puts in and pays a caretaker to show the house, is the occupier of the house by his servant and is liable to be rated to the poor rate at the usual rateable value of the house (*Hicks* v. *Dunstable*, 48 J. P. 326).

An owner of a cottage employed for wages a man and his wife as caretakers, and also paid a man to cultivate the garden. There was wine in the cellar, and a few articles of furniture in the cottage. The owner had never slept or eaten food in the house. *Held* that he was in rateable occupation of the premises (*Bursledon Overseers* v. *Clarke*, 61 J. P. 261).

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1.

Note.

M. the lessee of a corn mill evicted, for non-payment of rent, her sub-tenants who had been in occupation of the mill and who had rebuilt it and provided new machinery for it. M. was in possession when a rate was made. M. had put a caretaker in charge who kept the machinery in order, and the premises were advertised to be let as a going concern. M. had not used the premises as a mill at any time. *Held* that the court was not bound to hold as a matter of law that M. was in immediate use and occupation so as to be liable as rateable occupier (*Midleton Union* v. *M'Donnell*, [1896] 2 Ir. R. 228).

If a house be given to a servant to live in upon such terms that he has and is entitled to the exclusive occupation of it he will be rateable for it, even though his master by their agreement be bound to pay the rent, taxes, &c., for it. A party rated was brewer in a brewery, under an agreement for 150*l.* a year wages and a house to live in; at first he lived in a house of his employer in the brewery, but becoming unwell was allowed to take a house at some distance from it, which he did in his own name, and for several years after was assessed to all taxes and rates for it in his own name, but his employer paid the rent and taxes, &c.; against the last poor rate he appealed upon the ground that his employer was the real occupier of the house and ought to be rated, he himself occupying merely as a servant; the court held that he was properly rated (*Reg.* v. *Wall Lynn*, 8 A. & E. 379; 7 L. J. M. C. 85; 3 N. & P. 411; 2 Jur. 541).

The master and fellows of Catherine Hall, Cambridge, built two houses upon a piece of land, one for their butler and the other for their porter, of which they had the exclusive enjoyment, and took in lodgers and boarders; the butler and porter respectively, and not the college, were liable to be rated for these houses (*Rex* v. *Gardner*, Cowp. 79).

Successive occupiers.

By the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 16, as amended by the Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882 (45 & 46 Vict. c. 20), s. 3, successive occupiers of premises are liable only for such part of the rate as is proportionate to the time of their occupation within the period for which the rate is made. See notes to those statutes.

One occupier of several separate tenements.

Where a person occupies premises which consist of several hereditaments more or less distinct from each other, he may be rated separately in respect of each distinct hereditament. The Mersey Dock Board occupied premises consisting of various warehouses, workshops, graving docks, mills, &c. These were all capable of separate occupation, and tenants could be found to take them apart from the docks. By reason of the loss in carrying on the business of the docks the board made no profit from the occupation of the premises as a whole. *Held* that the Board were liable to be rated separately in respect of the several items for which tenants could be found, which must be assessed in the same way as other properties of a similar nature (*Mersey Docks and Harbour Board* v. *Birkenhead*, L. R. 8 Q. B. 445; 42 L. J. M. C. 141).

In the case of a farm, however, the various fields need not be separately assessed (*Rawlence* v. *Hursley Union*, 3 Ex. D. 44; 47 L. J. M. C. 31; 37 L. T. 503; 42 J. P. 24).

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1. Note.

Occupier of part of undivided tenement, &c.

Where a man rents or owns a house or land, the actual occupation of any portion of it by him may, and usually will, make him rateable for the whole (*Reg.* v. *Smith*, 30 L. J. M. C. 74; *Reg.* v. *Flitton*, 30 L. J. M. C. 89). A man hired a house and garden; neither he nor his family ever lodged or slept in the house; he resided elsewhere, but occasionally came, and worked for an hour or two at a turning lathe, which he had erected in one of the rooms, and in which he had also a few chairs and a table: he kept corn for a horse in another room, and his gardener kept flower-pots, working-tools, &c., in a lumber room; he also allowed a poor man and his wife to reside in the kitchen, but that had no communication with the rest of the house; he had been offered 25*l.* a year for the house, but had refused it; being rated for the house at 24*l.*, the sum at which the last tenant had been rated, he appealed, and the sessions being of opinion that he was rateable only for such part as he actually occupied, altered the rate to 5*l.*: but the court held that he was rateable for the whole; for it would be attended with great inconvenience to draw such a line as was here attempted between the occupation of one part of a house and another (*Rex* v. *St. Mary-the-Less, Durham*, 4 T. R. 477).

A surgeon had a house and shop in Aberystwith, where his wife and daughter lived, and where his business was carried on by an assistant in his absence; in July, 1806, his wife and daughter left the house, having previously had the shop parted off from the other part of the house by laths, so that the assistant had only the shop to occupy; they left the key of the house with a person, who during their absence had the garden dug, and occasionally allowed some friends of the surgeon to occupy the house for a month or six weeks at a time; the furniture remained in the house, and it was always ready for the reception of the surgeon and his family when they chose to return to it; the family did not in fact return until May, 1807: the surgeon being rated for this house for the intermediate time, appealed; but the court held that he was liable to be rated; there was no instance of a man being permitted to carve out the occupation of his house in this way, locking up one room, and then another, but using as much of the house as he found convenient (*Rex* v. *Aberystwith*, 10 East, 354).

A house not structurally severed was let partly to one tenant and partly to another, and each had the exclusive occupation of the part let to him. There was a staircase leading from the front door to the upper rooms, and a joint user of the front garden and the back yard, in which was a closet; it was held that the tenants could not be rated as joint occupiers, but that each was the occupier of a separate tenement capable of being rated, and each should be rated separately (*Allchurch* v. *Hendon Union*, [1891] 2 Q. B. 436; 61 L. J. M. C. 27; 65 L. T. 450; 40 W. R. 86; 56 J. P. 117).

"Lodger" or "tenant."

Whether the occupier of part of a house or block of buildings, the whole of which he does not own or rent, is rateable, depends upon whether the owner or landlord of the whole house or block retains control of the whole of the premises; if he does, the occupier of the part is not rateable. An ordinary lodger is not liable to be rated (*Smith* v. *St. Michael's, Cambridge*, 3 E. & E. 383; 30 L. J. M. C. 74; 7 Jur. (N. S.) 34; 3 L. T. (N. S.) 687).

Occupier of Flat.

"The question in these cases is whether there is an occupation of a distinct and separate tenement by a person who inhabits a portion

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1.

Note.

of a house or building, or whether he is a mere inmate under the landlord. . . The most convenient, and the only criterion, is whether the landlord retains control of the outer door, and has shown by his retaining control of the outer door that he has the control of the whole of the premises; so that although he may be liable to an action upon the breach of his contract to allow the tenant to occupy a portion of the premises so let to the tenant, yet the tenant could not maintain trespass against the landlord, because the landlord has retained in himself the dominion and control over the whole of the house" (*Reg.* v. *St. George's Union Assessment Committee*, L. R. 7 Q. B. 90; 41 L. J. M. C. 30; 25 L. T. (N. S.) 696; 20 W. R. 179; 36 J. P. 550; see also *Att.-Gen.* v. *Mutual Tontine Westminster Chambers Association*, 1 Ex. D. 469, decided on the question of liability to inhabited house duty).

Exclusive occupation.

There must be actual and exclusive occupation of the land in order to render the occupier liable to be rated; exclusive occupation does not mean that nobody else has any rights in the premises, but if a person has only a subordinate occupation subject at all times to the control and regulation of another, then that person has not occupation in the strict sense for the purposes of rating, but the rateable occupation remains in the other, who has the right of regulation and control (*Holywell Union and Halkyn Parish* v. *Halkyn Drainage Co.*, [1894] A. C. at p. 134; 64 L. J. M. C. 113; 71 L. T. 818; 59 J. P. 566).

"The poor rate is a rate imposed by the statute on the occupier, and that occupier must be the exclusive occupier; a person who, if there were a trespass committed on the premises, would be the person to bring an action of trespass for it" (*Allan* v. *Liverpool*, L. R. 9 Q. B. 180; 43 L. J. M. C. 69; 30 L. T. (N. S.) 93; 22 W. R. 330, *per* Blackburn, J.).

The corporation of London were the proprietors of an ancient towing-path on one of the banks of the Thames, on which they were authorized by Act of Parliament to take tolls; they let the herbage and pasture to one Spencer, who paid rates for the same: being rated for the towing-path, the corporation appealed; but the court held that as Spencer had but the herbage and pasture, and not the soil, the corporation might maintain trespass for any injury to the land, and must therefore be deemed occupiers of it; and were therefore rateable (*Rex* v. *London, Mayor, &c., of*, 4 T. R. 21).

Easements.

As there is no exclusive occupation of land in the enjoyment of a mere easement, easements are not rateable. A canal company, while rateable in respect of artificial cuts, canals, and similar works, is not rateable in respect of the natural course of the river used by them in the business of their undertaking, or of a towing-path which is not vested in them, but over which they have merely an easement (*Manchester, Sheffield, and Lincolnshire Rail. Co.* v. *Doncaster Union*, 71 L. T. 585; 10 T. L. R. 567).

A corporation which had the sole use of the gas mains belonging to a local board for the purpose of supplying gas to public and private customers, such mains being repairable by the local board, was held not to have such an occupation of them as to be rateable in respect of them, but only a right of user or an easement which entailed no such liability (*Southport, Mayor, &c., of*, v. *Ormskirk*,

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

[1894] 1 Q. B. 196; 63 L. J. Q. B. 250; 69 L. T. 852; 42 W. R. 153; 58 J. P. 212). Sect. 1. Note.

But land may be occupied in connection with an easement, so that rateability ensues. In pursuance of a statute the owner of land granted to a drainage company the exclusive right of drainage through a tunnel and a water-course in his land, with the right of placing works in the tunnel and water-course, and of making other tunnels in connection therewith, reserving to himself the right to use the tunnels so to be made for prosecuting his mineral rights which were also reserved. It was held, that although no proprietary interest in the soil was conveyed to the company, yet the statute and the grant gave them not merely an easement, but possession of the tunnels and water-course, that the rights reserved to the owner were subordinate to the rights granted to the company, and that the company were actually in occupation of the tunnels and water-course, and rateable in respect thereof. Lord Herschell, in his judgment, said, "There may be occupation without even the existence of the relation of tenant towards the owner of the property. And I think land may be occupied for the purpose of and in connection with the enjoyment of an easement in such a manner as to make the person so occupying liable to be rated" (*Holywell Union and Halkyn Parish* v. *Halkyn Drainage Co.*, [1894] A. C. 117; 64 L. J. M. C. 113; 71 L. T. 818; 59 J. P. 566).

Licences.

The distinction between an exclusive occupation of, and an exclusive licence to use land, the occupier being rateable and the licensee not being rateable, appears from the following cases. The conservators of the Thames, in whom the bed and soil of the river was vested, made an agreement as follows: "We, the conservators of the Thames, do grant to W. liberty and licence to fasten, and thenceforth keep fastened, his coal hulk to the moorings placed by the conservators in the river, until either party shall have given to the other one month's notice in writing. In consideration whereof W. agrees to pay towards the expenses of placing and maintaining and repairing the moorings the annual sum of 30*l*." (*Watkins* v. *Milton-next-Gravesend*, L. R. 3 Q. B. 350; 37 L. J. M. C. 73; 18 L. T. (N. S.) 601; 16 W. R. 1059; 32 J. P. 294). With another firm the conservators made an agreement in form of a resolution, which contained the following terms: "That permission be given to Messrs. Cory to lay down moorings, at which they may place derrick hulks, at 'a certain place as per plan;' the work to be done to the satisfaction of the conservators, and under the inspection of the harbour master, and to remain on the following conditions being agreed to and observed by Messrs. Cory, viz., that the accommodation be assessed and rent paid thereon [and other conditions as to storage, &c.], and with the full understanding on the part of Messrs. Cory that if at any time hereafter it should be found by the conservators inexpedient to permit the moorings for the derrick hulk to remain in that or any other part of the river, they may cause the same to be removed" (*Cory* v. *Bristow*, 2 App. Cas. 262; 46 L. J. M. C. 273; 36 L. T. 595; 25 W. R. 383; 41 J. P. 709). In the former case, the owners of the hulks attached to the moorings were held not liable to be rated; in the latter case they were liable.

In the case of the Oxford University Boat Club barge, posts had been driven into the bed of the river, but there was no evidence by

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1.

Note.

whom or by whose authority. Rings attached to the barge passed round the posts, so that the barge rose and fell with the water in the river, and the posts had been used in this manner by the boat club for more than twenty years for the purpose of maintaining the barge in its position. The boat club paid no rent, and had no licence or authority from the owners of the soil of the bed of the river to use the posts. It was held, that on these facts there was no proof of such an occupation as made the boat club liable to be rated in respect of the posts or of the barge (*Grant* v. *Oxford Local Board*, L. R. 4 Q. B. 9; 38 L. J. M. C. 39; 19 L. T. (N. S.) 378; 17 W. R. 76; 33 J. P. 228).

In mining and quarrying agreements, it is sometimes difficult to determine whether there is a rateable occupation of the land, or a mere licence. An agreement between A. and B. that A. should enter upon B.'s land and there dig for coprolites, fence the excavations, complete them within a certain time, reinstate the land, and then deliver it up to B., was held to constitute a rateable occupation by A. (*Roads* v. *Trumpington*, L. R. 6 Q. B. 56; 40 L. J. M. C. 35; 23 L. T. 821; S. P. *Reg.* v. *Whaddon*, L. R. 10 Q. B. 230; 44 L. J. M. C. 73; 32 L. T. 633; 23 W. R. 653; *Kittoe* v. *Liskeard Union*, L. R. 10 Q. B. 7; 44 L. J. M. C. 23; 31 L. T. 601; 23 W. R. 72).

The proprietors of certain stone quarries contracted with the Trent and Mersey Navigation Company to furnish them with as much stone as they should want, at 7*d.* per ton, and stipulated that if they should neglect to deliver the quantities required, the company might enter upon the quarries, and take such quantities of stone as they wanted, paying 2*d.* per ton for it. The proprietors of the quarries having failed to deliver the stone required, the company entered and continued for more than twenty years to work the quarries and take the stone at 2*d.* per ton. The company being rated as occupiers of the quarries, the court held, that as they had only a liberty of taking stone from the quarries upon paying for it at so much per ton—a liberty which the proprietors might have granted to others as well as to them—they had not such a sole and exclusive occupation of the quarries as would render them rateable for them within the meaning of the statute (*Rex* v. *Trent and Mersey Navigation*, 4 B. & C. 57). So of a licence to search for clay (*Reg.* v. *Fayle*, 4 W. R. 460; 27 L. T. 64; 20 J. P. 263).

A person who hired the right of grazing over certain lands was held not rateable, as not having exclusive occupation of the lands (*Mogg* v. *Yatton*, 6 Q. B. D. 10; 50 L. J. M. C. 17; 29 W. R. 74; 45 J. P. 324).

An exclusive right to use special telegraph wires which remained the property of the Postmaster-General did not make the company to which such right was granted liable to be rated in respect of the wires, even where they were the only wires affixed to the posts (*Paris and New York Telegraph Co.*, or *Compagnie Française du Télégraphie de Paris à New York* v. *Penzance*, 12 Q. B. D. 552; 53 L. J. M. C. 189; 50 L. T. 790; 48 J. P. 693).

An exclusive right to set up a bookstall and sell books at a railway station does not make the persons enjoying such right liable to be rated, if there be no exclusive occupation of the railway

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1.

Note.

platform, even though they are styled "tenants" in the agreement conferring such right (*Smith* v. *Lambeth Assessment Committee*, 10 Q. B. D. 327; 52 L. J. M. C. 1; 48 L. T. 57; 47 J. P. 244).

Premises subject to control and regulation of landlord.

Where the occupation of land is at all times subject to the control of the owner, it is not such an occupation as to render the occupier liable to be rateable to the poor.

The Mersey Docks and Harbour Board were empowered by their special Act, to *set apart and appropriate* any particular portion of any dock, quay, warehouse, or sheds, for the *exclusive accommodation* and use of any company, firm, or individual engaged in carrying on any particular trade, who should be desirous of having such exclusive occupation for the reception of their vessels; but such company, &c., were to be subject to the general rules and regulations of the board. They had also power to let sheds and any portions of the quays at such rents and on such terms as they might think expedient. The board accordingly agreed to set apart and appropriate to the plaintiffs, a canal company, a berth with the quay opposite thereto, the appropriation to be determinable at six months' notice, at a fixed yearly rent; the plaintiffs were to pay all rates and taxes except such as were legally chargeable to the landlords, to keep the premises in repair, conform to the rules and regulations of the board, and allow the board at all times to have free access to the premises. The board reserved a right of re-entry on non-payment of rent or non-performance of the conditions of the agreement. The plaintiffs having been rated to the poor rate in respect of their alleged occupation of the premises; it was held that the plaintiffs had not such exclusive occupation of the premises as to make them rateable in respect of them (*Rochdale Canal Company* v. *Brewster*, [1894] 2 Q. B. 852; 64 L. J. Q. B. 37; 71 L. T. 243; 59 J. P. 132; following *Allan* v. *Liverpool*, L. R. 9 Q. B. 180; 43 L. J. M. C. 69; 30 L. T. (N. S.) 93; 22 W. R. 330; decided upon the same special Act and a very similar agreement.

The plaintiffs, a railway company, were the owners of some stables situated within the fence of the station, to which access was obtained through two gateways from the public roads. By the permission of the plaintiffs, the stables were used by coal owners, under agreements by which the coal owners, "in consideration of the railway company permitting us to occupy and use a stable for four horses, do hereby agree to pay the monthly rent or sum of 1*l.* 5*s.*, without any deduction whatsoever (property tax only excepted); and we undertake and agree, so long as we shall occupy or use the said stable, to observe, perform, and be bound by the bye-laws, rules, and regulations which shall for the time being be issued or prescribed by the railway company for the government and use of their railway stations, premises and conveniences; and we further undertake and agree to quit and deliver up possession of the said stable at the expiration of one month after a notice in writing for that purpose, signed by any agent of the company, to be given at any time, shall be served on us, our executors or administrators, either personally or by being affixed to any part of the stable, provided that in such case a proportionate part only of the rent for the current month shall be paid." The plaintiffs had not in fact exercised any control over or used any of the stables during the currency of the agreements; and none of the bye-laws

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1.

Note.

had any application to the stables. The plaintiffs having been rated to the poor rate in respect of the stables, the Court of Queen's Bench held that they were rightly so rated, and on the case being taken to the Exchequer Chamber, that court was equally divided in opinion, the three judges who upheld the judgment of the court below being of opinion that, on the true construction of the agreement, and looking at the situation of the stables, it was the intention of the plaintiffs to retain control over the stables, and not to part with the exclusive occupation to the coal owners (*London and North Western Rail. Co.* v. *Buckmaster*, L. R. 10 Q. B. 444; 44 L. J. M. C. 180; 33 L. T. (N. S.) 329; 24 W. R. 16; 39 J. P. 692).

A refreshment contractor made an agreement with the Exhibition Commissioners of 1862, by which he was to have the right of selling refreshments on a space of at least 40,000 square feet in the exhibition; he was to fit up the space with counters and fittings, provide cellars, and lay on gas and water, and all fittings, &c., made by him were to become the property of the commissioners; and he was to be *subject to the bye-laws and regulations* of the commissioners. The keys of the doors opening from the refreshment rooms into the exhibition were kept by the police, who usually locked the contractor and his servants out every evening, and admitted them again in the morning: it was held, that the contractor had not such exclusive occupation of the space so allotted to him as to render him liable to be rated in respect thereof (*Reg.* v. *Morrish*, 32 L. J. M. C. 245; 10 Jur. (N. S.) 71; S. C. *Morrish* v. *Hall*, 8 L. T. (N. S.) 697; *Morrish* v. *St. Mary Abbotts, Kensington*, 27 J. P. 470).

Beneficial occupation.

The occupation must be "beneficial," otherwise the occupier is not rateable in respect of premises he occupies. In ascertaining the meaning and application of this phrase it is necessary to keep distinct the question whether in any particular case the occupier is rateable at all, and the question upon what principle the assessment should be made if the occupier is rateable.*

The principle which determines the question whether the occupation is beneficial, so as to render the occupier liable to be rated at all, is thus laid down. "Much reliance was placed in the argument at the bar on the language used by Blackburn, J., in delivering the opinion of the judges in *Jones* v. *Mersey Docks* (11 H. L. C. at p. 462). The learned judge said: 'It is clear that there can be no valid rate unless the occupation be such as to be of value: and if the words *beneficial occupation* are to be understood as merely signifying that the occupation is of value (which is obviously the sense in which the phrase is used in many of the cases cited at the bar), it is clear that a beneficial occupation is essential as a foundation of the rate.' The learned judge, in my opinion, did not, and could not, have meant that it is essential to rateability that a particular occupier of the land can make a pecuniary profit by the use to which he is putting it. It is, I think, rateable whenever its occupation is of value. Whether profit—that is, pecuniary profit—can be derived from the occupation by the occupier is not the criterion which determines whether the premises are rateable, for it

* The cases illustrating the principles upon which the assessments should be made of premises of which the occupier is rateable are set out in the note to the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 1, *post*.

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1.

Note.

does not by any means follow that because there is no profit there is no value; therefore the possibility of making a pecuniary profit by the occupier is not the test whether the occupation is of value" (*London County Council* v. *Erith*, [1893] A. C. p. 585; 63 L. J. M. C. 9; 69 L. T. 725; 42 W. R. 330; 57 J. P. 821, *per* Lord Herschell).

In *West Bromwich School Board* v. *West Bromwich Overseers* (13 Q. B. D. at p. 942), Bowen, L.J., said: "If land is by law struck with sterility when in any and everybody's hands so that no *profit* can be derived from the occupation of it, it cannot be rated to the relief of the poor." Upon which Lord Herschell observes: "Now, if land is 'struck with sterility in any and everybody's hands,' whether by law or by its inherent condition, so that its occupation is and would be of *no value* to any one, I should quite agree that it cannot be rated to the relief of the poor. But I must demur to the view that the question whether *profit* (by which I understand is meant pecuniary profit) can be derived from the occupation by the occupier is a criterion which determines whether the premises are rateable" (*Ib.*).

The interpretation placed by the House of Lords in the case above cited, viz., that an occupation of land is "beneficial" so as to make the occupier rateable, if it is an occupation which is or might be of value to some occupier, has not always prevailed in the courts, owing to the confusion arising from regarding the term "beneficial occupation" as meaning the same thing as an occupation by which a profit could be earned. It was, however, pointed out by Lord Denman, C.J., as early as 1836, that such was not the correct meaning. "The absence of 'beneficial occupation' was also much insisted upon; and it was contended that *that* is the criterion to ascertain whether property be rateable or not. It is not to be denied but that this phrase 'beneficial occupation' has been in frequent use, and, generally speaking, it serves tolerably well to convey rather a popular notion than to give a certain rule for deciding the question of rateability in every instance. Because if by beneficial be meant *profitable*, or anything like it, the expression is obviously fallacious" (*Bristol Poor, Governors of*, v. *Wait*, 5 A. & E. 1; 6 N. & M. 383; 5 L. J. M. C. 113).

The notion that the occupation must be *profitable* to the occupier was the basis of numerous decisions, in accordance with which it was held that if valuable property be in the possession of trustees, who are bound to apply the whole of the surplus proceeds to public but not government purposes—that is, in works or purposes for the better accommodation or use of the public, they are not liable to be rated. For instance, it was held that the trustees of St. Luke's Hospital were not rateable on the ground that, although lessees of the property, mere nominal trustees cannot be esteemed occupiers, or rated as such (*Rex* v. *St. Luke's*, 2 Burr. 1053). Navigation commissioners, who were bound to apply all the surplus of the tolls to the use and purpose of their Act, and no other purpose whatsoever, were not rateable, on the ground that having a bare naked trust they were not occupiers within the statute of Elizabeth (*Rex* v. *Salter's Load Sluice Commissioners*, 4 T. R. 730; *Rex* v. *Weaver Navigation Commissioners*, 7 B. & C. 70 n.). Harbour commissioners, who were bound by their Act to devote the income arising from the use of their property to the public purposes of their Act, were not rateable: "they are not occupiers in the ordinary sense of the

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1.

Note.

word, and no profit is received for the use of any person" (*Rex* v. *Liverpool*, 7 B. & C. 61). Municipal corporations were not rateable after the passing of the Municipal Corporations Act, 1835 (5 & 6 Will. 4, c. 76), which compelled the corporations mentioned in Schedules A. and B. to that Act to pay the net proceeds of their estates into the borough fund, which was applicable first to the payment of existing debts of the corporation, then to the corporation expenses, and the surplus, if any, for the public benefit of the inhabitants and the improvement of the borough (*Reg.* v. *Liverpool*, 9 A. & E. 435).

These and various other cases were in 1865 reviewed by the House of Lords in *Jones* v. *Mersey Docks* (11 H. L. C. 443; 20 C. B. (N. S.) 56; 35 L. J. M. C. 1; 14 Jur. (N. S.) 746; 12 L. T. (N. S.) 643; 13 W. R. 1069; 29 J. P. 483), where the same question of the rateability of the dock trustees arose with regard to the Liverpool Docks as had been decided in *Rex* v. *Liverpool* (7 B. & C. 61, *supra*); and it was there laid down that that case, and the cases on which it was founded, were wrongly decided; that trustees of valuable property were not exempt from rateability by reason of their occupation not being "*profitable*" to themselves or to individuals; and that the true principle is, "that the only ground of exemption from the statute of Elizabeth is that which is furnished by the rule that the Sovereign is not bound by the statute, and that consequently when valuable property (that is, property capable of yielding a net rent above what is required for its maintenance) is sought to be exempted on the ground that it is occupied by bare trustees for public purposes, the public purposes must be such as are required and created by the government of the country, and are therefore to be deemed part of the use and service of the Crown." All cases decided in accordance with any principle other than that here enunciated must therefore be considered as overruled. "The decision of this House in *Jones* v. *Mersey Docks* marks an epoch in the law of rating. Many of the earlier decisions are tainted with this vice, that they proceed upon the supposition that lands held for public purposes are on that account not rateable. This doctrine is now exploded, your lordships' House having distinctly determined that the circumstance that land is held by a public body for public purposes does not affect its rateability" (*London County Council* v. *Erith*, *supra*, [1893] A. C. at p. 585, *per* Lord Herschell).

Value.

"In order that a valid rate may be imposed, it is essential that the occupation should be of value beyond what is required to maintain the property; for if the occupation be of so little value that a hypothetical tenant would either give no rent, or a rent which, after deducting the average annual expense of maintenance, would leave no overplus, there is nothing to rate" (*Jones* v. *Mersey Docks*, *supra*, 11 H. L. C. at p. 461, *per* Blackburn, J.).

Value to occupier, not merely value to public.

Property, to be rateable, must be of value, not in the sense of advantage to the public, but in the sense of value to the occupier (*Jones* v. *Mersey Docks*, *supra*, 11 H. L. C. at p. 478).

The Metropolitan Board of Works, pursuant to statute, purchased Putney Bridge from its owners, took off the tolls, and threw it open to the public toll free. The occupation of the bridge thereafter never was of value to the Metropolitan Board of Works, although

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1.

Note.

it was of great value to the public; but the fact of its value to the public was held not to make the Board of Works rateable in respect of the bridge (*Hare* v. *Putney Overseers*, 7 Q. B. D. 223).

The London County Council, *being under no duty to provide a park for the use of the public*, were empowered by a private Act to purchase certain lands, which were, by the terms of the Act, if acquired by the county council, to be held and maintained by them as a park for the perpetual use thereof by the public for exercise and recreation. The county council acquired the lands and laid them out as a park, and the necessary expenses of maintaining the park exceeded any sums of money which they could derive from licences for the supply of refreshments therein, or from grazing rights or otherwise. It was held that the benefit to the public from the use of the park was insufficient to support a rate made upon the county council in respect of the park, which was of no value to the council (*London County Council* v. *Lambeth*, [1897] A. C. 625; 66 L. J. Q. B. 806; 76 L. T. 795).

In the above case, the ground for holding that the lands occupied by the county council were of no value to the occupier was that the council was under no duty to provide the park, and that no tenant could be found who would give any rent for it so long as it was subject to the provisions of the Act under which it was provided and held. Where, however, the London County Council acquired land and premises consisting of a pumping station and works, which they occupied and used as a necessary part of the Metropolitan sewage system, and to enable them to perform duties imposed upon them by statute, it was held, that although the council might derive no profit from their occupation, it was of value to them, inasmuch as they were bound to acquire or hire such or similar premises, and that they were therefore rateable (*London County Council* v. *Erith*, [1893] A. C. 562; 63 L. J. M. C. 9; 69 L. T. 725; 42 W. R. 330; 57 J. P. 821). On the same ground, a school board is rateable in respect of the schools it provides (*Reg.* v. *London School Board*, 17 Q. B. D. 738; 55 L. J. M. C. 169; 55 L. T. 384; 34 W. R. 583; 50 J. P. 419); and a district council is rateable in respect of sewage farms, though worked at a loss (*Burton-on-Trent* v. *Egginton*, 24 Q. B. D. 197; 59 L. J. M. C. 1; 62 L. T. 412; 38 W. R. 181; 54 J. P. 453).

Special circumstances reducing value to particular occupier do not exempt him.

The fact that in consequence of special circumstances or the special terms of a contract under which premises are occupied, the premises are of no value to the particular occupier, does not exempt the occupier from being rated at the full value of the premises; and is illustrated by the following cases:—

The lessees of a colliery being rated for it, appealed on the ground that their occupancy of it was not beneficial,—that they had worked it for the last three years at a loss; it appeared that they knew it would be a losing adventure when they took it, but their inducement to do so was that a mine of their own adjoined it, and the only, or at least the cheapest, way to get to work it, was working through this colliery to it: the court held that they were rateable; they were the occupiers, and the property was rateable; and it was no answer to say that they had made an unprofitable bargain with their landlord; the court could not examine into that: it was sufficient to make them liable, that they

POOR RATE—WHO LIABLE TO BE RATED—*Occupier—continued.*

Sect. 1.

Note.

were the occupiers of rateable property in the parish (*Rex* v. *Parrott*, 5 T. R. 593).

But where a coal mine, being exhausted and worked out, was no longer worked, the court held that the occupier was no longer rateable for it, although he still continued to pay rent for it; he was rateable for it according to its annual value at the time the rate was made; and when it became no longer of value, the subject-matter of the rating was gone (*Rex* v. *Bedworth*, 8 East, 387).

The dock company of Hull were rated for their dock, and appealed against the rate on the ground that they had made no profit of their dock in that year, having expended in the repairing of it more than their dues amounted to: the court held that they were properly rated; it was not stated that the property was not profitable *communibus annis;* and if deductions were to be made in this way for an extra expense occurring in particular years, it would be infinitely inconvenient, and be open to every species of fraud (*Rex* v. *Hull Dock Co.*, 5 M. & S. 394).

The occupier of a house and farm in Canvey Island, in the county of Essex, was rated for them to the poor, and appealed; and it appeared that the island being formerly covered with the water of the Thames every spring-tide, the proprietors gave one-third of the lands to a projector, upon condition of his embanking the island and keeping out the water; he accordingly erected works, which had that effect: but latterly commissioners were appointed for the purpose of maintaining them, and this third of the island was rendered liable to an annual tax to the extent of the yearly value; the house and farm rated was a portion of this third, and the appellant got it for nothing, upon condition of paying this annual tax: it was argued that this tax was an outgoing that ought to be deducted from the rateable value, and if so, he ought not to be rated at all, as this tax was equal to the annual value: but the court held that he was rateable, as this tax was *quasi* a rent he paid for his farm, and if he had not to pay it he would have to pay a rent equal to it instead of it (*R.* v. *Vange*, 3 Q. B. 242; 6 Jur. 893).

Excusal of poor rates on the ground of poverty of occupier.

By the Poor Relief Act, 1814 (54 Geo. 3, c. 170), s. 11, justices of the peace, with the consent of the overseers, may direct that any occupier in the parish be excused from payment of poor rates, on the ground of poverty.

The landlord cannot be rated in respect of houses let to tenants who have been excused their rates on the ground of poverty (*Rex* v. *Hull Dock Co.*, 3 B. & C. 516).

POOR RATE—PROPERTY RATEABLE.

LANDS EXEMPT BY STATUTE.

Rule of construction.

It is not necessary, in order to create a statutory exemption from poor rates, that the statute should in express terms exempt from such particular rates; it is sufficient if, by fair construction of the words of the statute, the exemption clearly appears (*Rex* v. *Barnby Dun*, 2 A. & E. 551; 4 N. & M. 436; 4 L. J. M. C. 78).

POOR RATE—PROPERTY RATEABLE—*Lands Exempt by Statute —continued.*

Sect. 1. Note.

The following expressions in local and general or private Acts have been held to exempt from payment of poor rates the various properties to which they applied: "free and clear of all rates, taxes and deductions whatever" (*Chatfield* v. *Ruston*, 3 B. & C. 863; 5 D. & R. 675); "free from all taxes and other deductions whatsoever except land tax" (*Mitchell* v. *Fordham*, 6 B. & C. 274); 9 D. & R. 335); "free from all public taxes, charges and assessments whatsoever, civil or military" (*Rex* v. *Scott*, 3 T. R. 602); "free from all taxes and assessments whatsoever" (*Rex* v. *London Gas Light and Coke Co.*, 8 B. & C. 54; 2 M. & Ry. 12).

Property wholly exempt.

The following classes of property are altogether exempted from rates by public statutes:—

Every storehouse provided under the Volunteer Act, 1863 (26 & 27 Vict. c. 65), by sect. 26 of that Act.

Lands, &c., belonging to societies instituted for purposes of science, literature, or the fine arts exclusively, and wholly supported by voluntary contributions, by the Scientific Societies Act, 1843 (6 & 7 Vict. c. 36).

Lighthouses, beacons, buoys, and light dues under the control of the general lighthouse authorities, by the Mercantile Law Amendment Act, 1884 (57 & 58 Vict. c. 60), s. 731.

Voluntary schools, by the Voluntary Schools Act, 1897 (60 & 61 Vict. c. 5), s. 3.

By the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 6, "the use of any room in an unoccupied house for the purpose of taking the poll shall not render any person liable to be rated, or to pay any rate for such house."

By the Sunday and Ragged Schools (Exemption from Rating) Act, 1869 (32 & 33 Vict. c. 46), s. 1, such schools may be exempted by the rating authority.

Cases of total exemptions from rates by private Acts will be found in the following cases:—*Rex* v. *Scott*, 3 T. R. 602; *Rex* v. *Calder and Hebble Navigation Co.*, 1 B. & Ald. 263; *Rex* v. *London Gaslight and Coke Co.*, 8 B. & C. 54.

The tolls of the river Lea navigation were exempt from being rated to the poor by Act of Parliament, and the trustees of the navigation had built a house for their surveyor out of the produce of the tolls, in which he lived, for the purpose of superintending their business; the surveyor being rated for this house, and the rate being levied by distress, he brought an action; and Abbott, C.J., held that he was liable to be rated; if he had received a salary out of the tolls, and rented another house, he would clearly be liable to be rated for it (—— v. *Armstrong*, 2 Stark. 543).

LANDS PARTIALLY EXEMPT BY STATUTE.

By the Burial Act, 1855 (18 & 19 Vict. c. 128), s. 15, no land purchased or acquired under the provisions of any of the Burial Acts for the purpose of a burial ground (with or without any building erected, or to be erected thereon), shall, while used for such purposes, be assessed to any county, parochial, or other local rates at a higher value or more improved rent than the value or

POOR RATE—PROPERTY RATEABLE—*Lands partially Exempt by Statute—continued.*

Sect. 1.

Note.

rent at which the same was assessed at the time of the purchase or acquisition.

By the Defence Act, 1860 (23 & 24 Vict. c. 112), s. 33, lands vested in the Secretary of State for War in pursuance of that Act, which were before the time of such vesting liable to and charged with tithes, or tithe rent-charge land tax, poor or other rates, shall continue chargeable therewith; but shall not be assessed to any tax or rate at a higher value or rent than that at which such lands were assessed at the time of such vesting.

By the Telegraph Act, 1868 (31 & 32 Vict. c. 110), s. 22, all land property and undertakings purchased or acquired by the Postmaster-General under this Act shall be assessed and rateable in respect to local, municipal, and parochial rates and assessments and charges, at sums not exceeding the rateable value at which such land property and undertakings were properly assessed or assessable at the time of such purchase or acquisition.

No duty is cast upon the Postmaster-General to pay the rates imposed by the Telegraph Acts; and there is no remedy by *mandamus* against him to enforce the payment of rates made upon the basis of the approved valuation lists (*Reg.* or *Marylebone Vestry* v. *Postmaster-General*, 28 L. T. (N. S.) 337; 21 W. R. 459; 37 J. P. 197). The limitation on the rateable value of premises so purchased by the Postmaster-General may continue, notwithstanding they have ceased to be used for telegraphic purposes and have been let to other persons (*St. Gabriel, Fenchurch*, v. *Williams*, 16 Q. B. D. 649; 55 L. J. M. C. 14; 54 L. T. 270; 34 W. R. 256; 50 J. P. 533).

Certain canals and docks are liable under their special Acts to be rated "as other lands and buildings lying near to them are or should be rated," or with some similar qualification. Cases on such Acts are noted *infra*, under the headings "Canals," "Docks," &c. (see *Rex* v. *Grand Junction Canal*, 1 B. & A. 289; *Rex* v. *Dudley Canal Navigation*, 7 D. & R. 466; *Rex* v. *Birmingham Canal Co.*, 2 B. & A. 570; *Rex* v. *St. Peter-the-Great*, 5 B. & C. 473; *Rex* v. *Monmouthshire Canal Co.*, 3 A. & E. 619; *Reg.* v. *Bristol Dock Co.*, 1 Q. B. 535; 10 L. J. M. C. 105; 1 G. & D. 76).

CROWN AND NATIONAL PROPERTY.

The law as to the exemption from rating of Crown property and property used for the public services is thus stated in *Jones* v. *Mersey Dock Co.*, 11 H. L. C., at pp. 463, 464:—

"The Crown, not being named in the statute of Elizabeth, is not bound by it; consequently the overseers cannot impose a rate on the Sovereign in respect of lands occupied by Her Majesty, nor on those occupied by her servants for Her Majesty.

"The exemption, however, depends entirely on the occupier, and not on the title to the property. The tenants of Crown property, paying rent for it, are rateable like all other occupiers; and it has even been determined that where apartments in Hampton Court, a royal palace, were gratuitously assigned to a subject who occupied them by permission of the Sovereign but for the subject's own benefit, the subject was rateable in respect of such occupation of this royal property (*Reg.* v. *Ponsonby*, 3 Q. B. 14). On the other hand, where

POOR RATE — PROPERTY RATEABLE — *Crown and National Property—continued.*

Sect. 1.

Note.

a lease of private property is taken in the name of a subject, but the occupation is by the Sovereign or her servants on her behalf, the occupation being that of Her Majesty, no rate can be imposed" (*Lord Amherst* v. *Lord Somers*, 2 T. R. 372).

"So far the ground for exemption is perfectly intelligible, but it has been carried a good deal farther, and applied to many cases in which it can scarcely be said that the Sovereign or the servants of the Sovereign are in occupation. A long series of cases has established that where property is occupied for the purposes of the government of the country, including under that head the police, and the administration of justice, no one is rateable in respect of such occupation. And this applies not only to property occupied for such purposes by the servants of the great departments of State, such as the Post Office (*Smith* v. *Birmingham*, 7 E. & B. 483), the Horse Guards (*Lord Amherst* v. *Lord Somers*, 2 T. R. 372), or the Admiralty (*Reg.* v. *Stewart*, 8 E. & B. 360; 27 L. J. M. C. 81; 4 Jur. (N. S.) 187; 22 J. P. 480), in all which cases the occupiers might strictly be called servants of the Crown; but also to property occupied by local police (*Lancashire JJ.* v. *Shelford*, E. B. & E. 225); to county buildings occupied for the assizes, and for the judges' lodgings (*Hodgson* v. *Carlisle Local Board*, 8 E. & B. 116), or occupied as a county court (*Reg.* v. *Manchester*, 3 E. & B. 336), or a gaol" (*Reg.* v. *Shepherd*, 1 Q. B. 170).

"In these latter cases it is difficult to maintain that the occupants are, strictly speaking, servants of the Sovereign, so as to make the occupation that of Her Majesty; but the purposes are all public purposes of that kind which, by the constitution of this country, fall within the province of government, and are committed to the Sovereign, so that the occupiers, though not perhaps strictly servants of the Sovereign, may be considered *in consimili casu*."

Joint occupation by Crown and other persons.

In order that the occupation of premises should be exempt from rateability on the ground that such premises are occupied by or on behalf of the Crown, it is necessary that they should be occupied exclusively by the Crown or by persons using them exclusively in and for the service of the Crown (*Greig* v. *University of Edinburgh*, L. R. 1 H. L. Sc. 348); if they are used jointly by the Crown and other persons, such other persons will be rateable for them in proportion to the value of the user of them (*Worcestershire County Council* v. *Worcester Union*, [1897] 1 Q. B. 480; 66 L. J. Q. B. 323; 76 L. T. 138; 45 W. R. 309).

Royal palaces, parks, &c.

The royal palaces, parks, &c., if in the possession or occupation of the royal family, are not rateable to the poor. The House of Lords is exempt on the ground that it is a royal palace (*Leith Harbour Commissioners* v. *Poor Inspectors*, L. R. 1 H. L. Sc. 17).

If a site of a palace or other Crown land is demised to a subject, for a certain permanent interest, the grantee who occupies it is rateable for it (*Duke of Portland's Case*, Wynn's Analysis, 60; Cald. 3 n.).

The Earl of Bute was appointed ranger of Richmond Park by George III., and as such was entitled to the herbage and pannage of the park, and other emoluments; the park contained 230 acres of meadow and arable land, the hay of which was consumed by the deer, and the King's and the ranger's horses, but the corn belonged

POOR RATE — PROPERTY RATEABLE — *Crown and National Property—continued.*

Sect. 1.

Note.

to the ranger, and was sold for his benefit, and his profits altogether as ranger amounted to 100*l.* a year; the court held that, as to the arable land he was rateable; being entitled to and taking the immediate profits of the land, he was the occupier of it within the meaning of the statute; what interest he had in the land, whether as tenant at will, or by other tenure, or what title he had to it, it was wholly unnecessary to inquire; *quo nomine* occupier, whether by gift or for wages, could make no difference (*Earl of Bute* v. *Grindall*, 1 T. R. 338; 2 H. Bl. 265).

George III. appointed his brother ranger of Windsor Park, who as such occupied the great lodge there; the brother appointed one Matthews, one of the keepers, who as such occupied a lodge and two acres of land in the park; Matthews being rated to the poor for this, appealed; and the court held him liable; they said that the Crown was not liable to be rated to the poor for its possession; but when a servant of the Crown becomes beneficially possessed of any such property, he is rateable for it as occupier, and it is immaterial whether he pay for it by a rent or by services (*Rex* or *Old Windsor* v. *Matthews*, Cald. 1).

Where the several persons who are permitted to occupy apartments at Hampton Court Palace, and which apartments they themselves furnish, were rated for them to the poor, the court held them to be rateable (*R.* v. *Ponsonby*, 3 Q. B. 14; 11 L. J. M. C. 65; 1 G. & D. 713).

Military and naval premises.

Barracks are not liable to be rated to the poor. And therefore where a captain of the Horse Guards, authorized by a warrant under the sign manual, took stables for his troop, in which none but the troopers' horses were kept, it was holden that he was not liable to be rated for them to the poor,—the court saying that neither the possessions of the Crown nor of the public were liable to be so rated, and that these stables fell within one or other of those descriptions (*Lord Amherst* v. *Lord Somers*, 2 T. R. 372).

Premises occupied by a volunteer corps for the purpose of the service of the corps, and being reasonably necessary for such service, are occupied by servants of the Crown for the purposes of the Crown, and therefore are exempt from rates; and the premises so exempt include not only such part of them as is a storehouse for the depositing and safe keeping of arms, ammunition, and stores within the meaning of sect. 26 of the Volunteer Act, 1863 (26 & 27 Vict. c. 65), s. 26, but all such other parts as are reasonably necessary for the service of the corps (*Pearson* v. *Holborn Union*, [1893] 1 Q. B. 389; 62 L. J. M. C. 77; 68 L. T. 351; 57 J. P. 169).

A building intended for a depôt and storehouse of the arms and accoutrements of the London Militia, though erected by the Commissioners of the Lieutenancy for London, and being their property, was held not rateable (*R.* v. *Jay*, 8 E. & B. 469; S. C. *Jay* v. *Hammon*, 27 L. J. M. C. 25; 4 Jur. (N. S.) 407).

Lands acquired by the Secretary of State for War under the Military Forces Localization Act, 1872 (35 & 36 Vict. c. 68), for building barracks, &c., are liable to be rated under sect. 11 of that Act.

If an officer have the exclusive and beneficial occupation of a portion of a military building, he may be rateable for it. A

POOR RATE — PROPERTY RATEABLE — *Crown and National Property—continued.*

Sect. 1.

Note

lieutenant-colonel, commanding the artillery at Portsmouth, resided with his family and servants in a house in the barracks; he had four rooms on the first floor, the attics, a stable, coach-house, and small garden; on the ground floor were his office and kitchen, a store-room, and a room for the adjutant; his apartments were perfectly distinct and separate from any other, and the outer door was under his sole control; the court held him to be an occupier within the meaning of the statute of Elizabeth, and therefore rateable (*Rex* v. *Terrott*, 3 East, 506).

The comptroller of Chelsea Hospital had separate and distinct apartments in the hospital for his own use, and for his exclusive occupation; the court held that the plaintiff was rateable for these apartments; they were appropriated to his distinct and separate use; he had the exclusive enjoyment of them, and they were, in fact, his dwelling-house (*Ayr* v. *Smallpiece*, 2 Burr. 1060; 1 Bott., 6th ed., pl. 154; S. P. *Rex* v. *Hurdis*, 3 T. R. 497); where Lord Kenyon in his judgment said: "It is not a general proposition that a servant of the Crown occupying a house in respect of his office is not rateable for it; for I was always rated for the house which I had as Master of the Rolls; and so are the auditors and tellers of the Exchequer."

An adjutant having charge of militia stores, and occupying for that purpose premises provided for such stores, is rateable in respect of such occupation so far only as he has the use of them exceeding what is necessary for himself and family, taking into account his station in life (*Reg.* v. *Fuller*, 8 E. & B. 365).

At the Gun Wharf at Portsmouth (an inclosed place for the keeping of military and naval stores), five of the officers and a porter had residences assigned to them for the necessary performance of their duties, but which were more spacious than was necessary for their accommodation respectively; the court held that they were rateable only for the excess beyond the accommodation rendered necessary for them in respect of their respective duties: and Coleridge and Erle, JJ., held that the necessary accommodation should be calculated with reference to the rank and position of the officer, and the number (if any) of his family (*Reg.* v. *Stewart*; *Reg.* v. *Stainsby*; *Reg.* v. *Foster*; *Reg.* v. *Bretton*, 8 E. & B. 360; 27 L. J. M. C. 81; 4 Jur. (N. S.) 187; 22 J. P. 480). And the same rule is applicable to the governor of a garrison town, occupying Crown property in the town, although commanding an extensive area outside the town (*R.* v. *Bretton*, *supra*).

The Secretary at War granted a licence to use for seven years certain premises, which had been erected by the Crown, for the purpose of making gas therein to supply the camp at Aldershot, the Crown to be at liberty to enter at all times, and the licence to be revocable on giving a written notice; the licensee was to repair and yield up the premises, but was declared in express terms not to be the tenant of the premises. Being rated as the occupier or tenant, it was held that he was properly so rated, for, though called a licensee, he was an actual occupier, and substantially a tenant (*Reg.* v. *Stevens*, 12 L. T. (N. S.) 491; 29 J. P. 597).

Under a special Act the conservators of Wimbledon Common were to permit the National Rifle Association to occupy every year

POOR RATE — PROPERTY RATEABLE — *Crown and National Property—continued.*

Sect. 1.

Note.

any part of a specified area of the Common for the purposes of an encampment and shooting meeting, together with butts, ranges, &c. The occupation was not to be for more than seventy-seven consecutive days, and the association were not to acquire any rights over the land. The association erected a paling round the part occupied by them and built a store shed. *Held*, that the association were not liable to be rated in respect of the land occupied by them or the ranges or butts, but were liable to be rated in respect of the store-house, which was occupied by them for their own purposes throughout the year (*Reg.* v. *Surrey JJ.*, or *Mildmay* v. *Wimbledon Overseers*, [1872] 41 L. J. M. C. 133; 27 L. T. (N. S.) 265; 20 W. R. 986).

Premises used in the administration of justice.

Occupiers of buildings used as courts of assize are within the privilege of the Crown, and are therefore not liable to be rated to the poor rate (*Coomber* v. *Berkshire JJ.*, 9 App. Cas. at p. 72, *per* Lord Watson). So, also, are the occupiers of buildings used as county courts (*Reg.* v. *Manchester Overseers*, 3 E. & B. 336; 23 L. J. M. C. 48; 18 Jur. 267); or as sessions houses, if occupied and used exclusively for the purpose of the administration of justice, and not for county administration purposes; but if such buildings are occupied and used jointly by justices for the administration of justice, and by a county council for county administrative purposes, the county council is rateable in respect of the occupation by them in proportion to the value of their occupation (*Middlesex County Council* v. *St. George's, Hanover Square*, [1897] 1 Q. B. 64; 66 L. J. Q. B. 101; 75 L. T. 464; 45 W. R. 215; 61 J. P. 38; *Worcestershire County Council* v. *Worcester Union*, [1897] 1 Q. B. 480; 66 L. J. Q. B. 323; 76 L. T. 138; 45 W. R. 309, overruling *Nicholson* v. *Holborn Union*, 18 Q. B. D. 161; 56 L. J. M. C. 54; 55 L. T. 775; 34 W. R. 230; 51 J. P. 341).

A building, erected in an assize town for the judges' lodgings, containing sleeping and other apartments, was used by the judges during the assizes, and by the magistrates of the county during the sessions; a quantity of plate was kept in it, furnished at the expense of the county, and wine purchased with money subscribed by the magistrates. The magistrates of the county being assessed to the poor rate for this building, the court held that they were not rateable for it, as it was used for public purposes only; but at all events, the whole body of the justices of the county ought not to have been rated for it, for the whole body did not occupy it (*Reg.* v. *Worcestershire JJ.*, 11 A. & E. 57; 3 P. & D. 8; 3 Jur. 1050). It may be doubted, however, whether this decision would now be adhered to in all points, in view of the judgments of the Court of Appeal in the above cases of the Middlesex County Council and the Worcestershire County Council.

Justices were empowered by statute to provide courts, judges' lodgings, &c., and to allow the use of the buildings for any lawful purpose for such consideration as they might think proper, but so as not to interfere with the use of the buildings and premises for the purpose primarily contemplated; they allowed the corporation of Manchester to use part of the buildings for the city quarter sessions and for the city court of record at an annual rent of 900*l.*; they were held rateable in respect of the part so let off, though the sum of 900*l.*, together with all sums received for the

POOR RATE — PROPERTY RATEABLE — *Crown and National Property—continued.*

Sect. 1.

Note.

use of the buildings, was insufficient to defray the average annual expenses of maintenance and management (*Lancashire JJ.* v. *Cheetham*, L. R. 3 Q. B. 14; 8 B. & S. 548; 37 L. J. M. C. 12; 16 W. R. 124).

Police stations, &c.

Officers of the county constabulary are not rateable in respect of their occupation of rooms in the police office in which they are required to reside, and the same rule would apply if the buildings were similarly occupied by the local police (*Reg.* v. *St. Martin's, Leicester*, L. R. 2 Q. B. 493; 36 L. J. M. C. 89; 8 B. & S. 536; 16 L. T. (N. S.) 625; 15 W. R. 1096).

A building was used as a district police station for county constabulary. A sergeant of constabulary and his wife and two constables resided on the premises. The sergeant occupied the living room, scullery, pantry, and one bedroom. The two constables took their meals in the constables' day-room, and had each one bedroom. The constables were required to reside on the premises for the purposes of the constabulary, and the accommodation provided for them did not exceed what was necessary for their degree in life. *Held* that there was no beneficial occupation of the premises, and, therefore, no liability to poor rate (*Reg.* v. *Lancashire JJ.*, or *Lancashire JJ.* v. *Stretford Overseers*, E. B. & E. 225; 27 L. J. M. C. 209; 31 L. T. 116; 4 Jur. (N. S.) 1274; 22 J. P. 705). But a house occupied by a superintendent of police, such house being no part of the police station, did not come within the recognized heads of property which is treated as Crown property, and the superintendent therefore was held to be rateable as the occupier (*Martin* v. *West Derby Union*, 11 Q. B. D. 145; 52 L. J. M. C. 66; 31 W. R. 489; 48 J. P. 775).

A sergeant of county police, with his wife, were obliged to occupy a cottage distant two miles from the nearest county police station, and another constable also occupied part of the same cottage, the rent being paid out of the county rate. There were no cells attached, nor was any room set apart for county police business to be done there, but sometimes complaints were made there and summonses signed by magistrates. The sergeant was held not to be exempt from being assessed to the poor rate, on the ground that the house was occupied by him in the discharge of his duties as constable or otherwise (*MacHarg* v. *Stoke-upon-Trent*, 48 J. P. 775; and see *Reg.* v. *Bridgehouse*, 20 L. T. (N. S.) 658).

Officers of the constabulary force of the county of Essex occupied as residences part of a building vested in a joint committee of the justices. The whole building was under one roof, and consisted of houses and quarters for the two officers and their families, clerks' offices, store-rooms for police clothing, parade-room, stables, &c. The whole of the premises were used solely by the police force for the purposes of, and were the headquarters of, the county constabulary, the chief constable being bound to reside there as a condition of his appointment. Each officer paid a rack-rent for the premises occupied by him, such rent being deducted from his pay. It was held that each of the officers was rateable to the relief of the poor in respect of his occupation (*Showers* v. *Chelmsford Union*, [1891] 1 Q. B. 339; 60 L. J. M. C. 55; 64 L. T. 755; 39 W. R. 231; 55 J. P. 8).

POOR RATE — PROPERTY RATEABLE — *Crown and National Property—continued.*

Sect. 1.

Note.

Post office.

A building was rented of a private person by the Postmaster-General and used only as a provincial post office, and for the sale of postal stamps, no person residing in it. It was held that no rate could be imposed upon any person in respect of it (*Reg.* v. *Smith*, or *Smith* v. *Birmingham Overseers*, 7 E. & B. 483; 26 L. J. M. C. 105; 3 Jur. (N. S.) 769; 29 L. T. 76; 21 J. P. 694).

Prisons.

The warden of the Fleet prison was holden to be rateable for the prison; for he had a separate and distinct house in the prison to reside in; and the rest he let to the prisoners at certain weekly rents; so that his occupation was beneficial (*Rex* v. *Eyles*, Cald. 407; 1 Bott., 6th ed., pl. 183).

The magistrates of the West Riding of Yorkshire being rated to the poor for the cornmill, treadmill rooms, work rooms, and warehouses included in the house of correction at Wakefield, and the governor and officers of the prison (who were obliged by law to reside within it) being rated for the apartments they respectively occupied: the court held that none of these parties were rateable (*Reg.* v. *Shepherd*, 1 Q. B. 170; 10 L. J. M. C. 44; 4 P. & D. 534; 5 Jur. 432); and the same decision was given in the case of Bedford prison (*Reg.* v. *St. Paul, Bedford*, 7 Exch. 650; 21 L. J. M. C. 224).

With regard to Dartmoor Convict Prison, the court held that the prison itself was not rateable; that the quarters occupied by the governor and other officers within the prison in discharge of their duties were not rateable, but that the coach-house and stabling of the governor were rateable; that the canteen and grocer's shop were rateable; that the farm being profitably occupied, was rateable; and that the residences occupied by the officers of the prison outside the prison walls were rateable (*Gambier* v. *Lydford*, 3 E. & B. 346; 23 L. J. M. C. 69; 18 Jur. 352).

National institutions and works.

The director of the Museum of Practical Geology in Jermyn Street was held not rateable in respect of his occupation of the premises (*De la Beche* v. *St. James, Westminster*, 4 E. & B. 385; 24 L. J. M. C. 74; 1 Jur. (N. S.) 375); and the president and members of the Royal Academy were held not rateable in respect of their occupation of the National Gallery (*Reg.* v. *Shee*, 4 Q. B. 2; 12 L. J. M. C. 186; 3 G. & D. 80; 7 Jur. 810), on the ground that they occupied the respective premises as ministers or agents of the Crown for furthering the national and public objects for which the property of the Crown was employed.

The Commissioners of Woods and Forests were empowered to construct a bridge across the Thames, and to borrow money from the consolidated fund for the purpose. They were authorized to take tolls to be applied to the expenses of the bridge, and to the repayment of the money borrowed, and, when that had been repaid, no tolls were to be taken for foot-passengers. It was held that the commissioners were not liable to be rated as occupiers of the bridge, their only occupation being as servants of the Crown, the work, although in one sense a local and private one, being a national undertaking done by servants of the Crown and with the funds of the Crown (*Reg.* v. *M'Cann*, L. R. 3 Q. B. 677; 37 L. J. M. C. 123; 19 L. T. (N. S.) 115; 11 W. R. 985).

Lands, &c., occupied by ambassadors, &c.

Ambassadors and their servants and suite, envoys, agents, residents, and other public ministers of foreign princes and states

POOR RATE — PROPERTY RATEABLE — *Crown and National Property—continued.*

Sect. 1.

Note.

are exempt from civil process. This privilege is recognized by the common law of England, as forming part of international law, and is confirmed by 7 Anne, c. 12, which is declaratory of the common law. Poor rates are therefore not recoverable from such persons.

It is a matter of evidence in each case whether the person claiming exemption under this head is entitled from his position to the privilege (*Parkinson* v. *Potter*, 16 Q. B. D. 152; 53 L. T. 818; 50 J. P. 470; 34 W. R. 215; and see *Taylor* v. *Best*, 14 C. B. 487; 23 L. J. C. P. 89; 18 Jur. 402; *Hopkins* v. *De Robeck*, 3 T. R. 79; *Fisher* v. *Begrez*, 2 C. & M. 240; *Novello* v. *Toogood*, 1 B. & C. 554); but the fact that the person claiming exemption is an English subject is no bar to his claim if his position with regard to the embassy would otherwise entitle him to it (*Macartney* v. *Garbutt*, 6 T. L. R. 214).

In the parish of Marylebone, by a local Act, 35 Geo. 3, c. lxxiii., the landlord, owner, lessor, or proprietor of premises occupied by persons entitled to exemption on the ground of privilege of embassy is liable to pay the rates from which such persons are exempt (see *Parkinson* v. *Potter* and *Macartney* v. *Garbutt*, *supra*).

PROPERTY HELD FOR PUBLIC PURPOSES.

It had been held in many instances that when property was occupied by trustees, or persons in the position of trustees, for public, as distinguished from Crown or government purposes, and such persons obtained no personal benefit from their occupation, but applied the proceeds of the property to public purposes, they were not rateable in respect of such property; *e.g.:* The Corporation of London were held not rateable in respect of Bethlem and Bridewell Hospitals (*Reg.* v. *St. George-the-Martyr*, 10 Q. B. 852; 16 L. J. M. C. 129; 11 J. P. 615). That view of the statute was in *Jones* v. *Mersey Docks* (11 H. L. C. 443) held to be erroneous. Lord Westbury in his judgment, referring to the case of *Rex* v. *Commissioners of Salter's Load Sluice* (4 T. R. 730), in which the above doctrine had been upheld, says "Lord Kenyon refers to the decision in the case of *St. Luke's Hospital* (2 Burr. 1053), and adopts the position that trustees who have a bare naked trust not coupled with any interest, are not liable to be rated, and he used language which, with the decisions of Lord Mansfield, has introduced the notion that if valuable property be in the possession of trustees, who are bound to apply the whole of the proceeds to public, but not government purposes, that is, in works or purposes for the better accommodation or use of the public, they are not liable to be rated. There is nothing in the Act of Elizabeth, or in the reason of the thing, to warrant this conclusion. No exemption is thereby given to charity or to public purposes beyond that which is strictly involved in the position that the Crown is not bound by the Act." The same principle was also laid down in *London County Council* v. *Erith*, [1893] A. C. p. 585; 63 L. J. M. C. 9; 69 L. T. 725; 42 W. R. 330; 57 J. P. 821).

All decisions of the courts, therefore, which are at variance with the principles enunciated in the above judgments, must be considered as overruled, and it is unnecessary to specify them particularly. On the other hand, occupiers of property held for

POOR RATE—PROPERTY RATEABLE—*Property held for Public Purposes—continued.*

Sect. 1.

Note.

public purposes of the following nature have been held rateable: workhouses (*R.* v. *Wallingford Union*, 10 A. & E. 259; 8 L. J. M. C. 89; 2 P. & D. 226); school-board schools (*Reg.* v. *London School Board*, 17 Q. B. D. 738; 55 L. J. M. C. 169; 55 L. T. 384; 34 W. R. 583; 50 J. P. 419); reformatory schools (*Tunnicliffe* v. *Birkdale Overseers*, 20 Q. B. D. 450; 59 L. T. 190; 36 W. R. 360; 52 J. P. 452, overruling *Sheppard* v. *Bradford*, 16 C. B. (N. S.) 369; 33 L. J. M. C. 182; 10 L. T. (N. S.) 42; 10 Jur. (N. S.) 799); industrial schools (*Reg.* v. *West Derby*, L. R. 10 Q. B. 283; 44 L. J. M. C. 98; 32 L. T. (N. S.) 400; *Durham County Council* v. *Chester-le-Street*, [1891] 1 Q. B. 330; 60 L. J. M. C. 9; 63 L. T. 461; 39 W. R. 188; 57 J. P. 759); besides docks, harbours, sewers, and many others, which are specified separately *infra*.

The distinction has been drawn between the occupation by a public body of property for public purposes, which under the conditions of its tenure has and can have no net annual value at all, and the occupation by the same or a similar body of property, which although not pecuniarily profitable to an occupier, nevertheless has some net value. In the former case, the occupiers are not rateable; in the latter case they are.

The London County Council, although under no duty to do so, were empowered by statute to purchase and did purchase certain lands, which by the terms of the statute, if acquired by the council, were to be held and maintained by them as a park for the perpetual use thereof by the public for recreation. The necessary expenses of maintaining the park exceeded any sums of money which the council could derive from licences for the supply of refreshments therein, or for grazing rights or otherwise; it was held that the council were not rateable for the park. As the council had no duty to provide the park, it could not be assumed that they would have paid a rent themselves for it, inasmuch as its tenure entailed an annual pecuniary loss; and any other tenant would only give such a rent as the restrictions imposed by the statute would enable him to earn, which in the circumstances was *nil*. There was no possible value in the property to any occupier; all the benefit was conferred on the public, and mere public benefit is not a ground of rateability (*London County Council* v. *Lambeth*, [1897] A. C. 625; 66 L. J. Q. B. 806; 76 L. T. 795; 61 J. P. 580).

The London County Council acquired and occupied land, &c., consisting of a pumping station and works as a necessary part of the metropolitan sewage system, and to enable them to perform duties imposed upon them by statute. So long as the land was used as part of the sewage system, it was incapable of yielding a profit, and the council were practically the only possible tenants. But if the land had been in the possession of a private owner, the council would have been willing to pay a rent for the land in order to occupy it for the purpose of their statutory duties. It was held that the council were rateable for the land, as its occupation had a net annual value, which might be estimated by the amount of rent which the council would have been willing to give for it, less the necessary expenses of maintenance, repair, &c. (*London County Council* v. *Erith*, [1893] A. C. 562; 63 L. J. M. C. 9; 69 L. T. 725; 42 W. R. 330; 57 J. P. 821).

POOR RATE—PROPERTY RATEABLE—*Property held for Public Purposes—continued.*

Sect. 1.

Note.

For the principles on which property held by public bodies is to be assessed, see the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 1, and notes thereon.

ADVERTISING STATIONS.

Before 1889, hoardings erected for advertising purposes, the same being so placed that there was no exclusive occupation of the soil of a permanent nature, were not rateable (*Reg.* v. *St. Pancras Assessment Committee*, 2 Q. B. D. 581; 46 L. J. M. C. 243; 41 J. P. 403). But if the advertiser had exclusive occupation of the land for the purpose of advertising, he was rateable (*Taylor* v. *Pendleton*, 19 Q. B. D. 288; 56 L. J. M. C. 146; 57 L. T. 530; 35 W. R. 762; 51 J. P. 613).

By the Advertising Stations (Rating) Act, 1889 (52 & 53 Vict. c. 27), s. 3, hoardings, &c., used for the exhibition of advertisements were made generally rateable (see notes to that statute, *post*).

CANALS AND NAVIGABLE RIVERS.

CANALS.

Rateability of canals.

A canal, as land covered with water, which may be profitably occupied, is liable to be rated to the poor. And the proprietors are rateable, according to the profits arising from the tolls, to the extent of the rent that might reasonably be obtained for the canal, if it were let to a tenant.

A canal company were rated for their basins, towing-paths, and that part of their canal lying within the parish, and for the tolls and duties arising therefrom; it was contended that as tolls were not rateable, the company ought not to have been rated for them; but the court held that they were properly rated; the tolls were stated to arise from the basins, towing-paths, and canal within the parish, and thus classed and connected with the local visible property, they were rateable there (*Rex* v. *Stafford and Worcester Canal*, 8 T. R. 340).

Mode of assessment.

The proprietors of a canal were rated for it in the proportion of the gross profits arising from the tolls, less the expenses of collection, repairs, &c., whereas other occupiers of land in the same township were only rated at what their lands were let for: the court held that all occupiers of land should be rated on the same principle, namely, at the sum their lands would let for; and that the canal in this instance ought only to be rated upon the sum a tenant would give for it as rent (*Rex* v. *Bridgewater, Duke of*, 9 B. & C. 68; S. P. *Rex* v. *Chaplin*, 1 B. & Ad. 926).

By a Canal Act it was provided that "the company shall from time to time be rated to all parliamentary and parochial taxes and assessments fixed in respect of the land and grounds to be purchased or taken by the said company of proprietors in pursuance of this Act, in the same proportion as other lands and grounds lying near the same are or shall be rated, and as the same lands and grounds so to be purchased or taken would be rateable in case the same were the property of individuals in their natural capacity." Upon appeal against a rate, it was held that the true criterion of value was what a tenant from year to year would give for the adjoining land, which was occupied by buildings, as being increased in value

POOR RATE—PROPERTY RATEABLE—*Canals—continued.*

Sect. 1.

Note.

by being so occupied, and for the adjoining land of other descriptions, the different lands being brought into hotchpot; and that the company should be rated for the land occupied by them according to the aggregate value of the whole of such adjoining land at the time the rate was made (*Reg.* v. *Glamorganshire Canal Co.*, or *Glamorganshire Canal Co.* v. *St. Mary, Cardiff*, 3 E. & E. 186; 29 L. J. M. C. 238; 6 Jur. (N. S.) 1146; 2 L. T. (N. S.) 694; *Warwick and Birmingham Canal Co.* v. *Birmingham*, 27 L. T. (N. S.) 487).

By the Lighting and Watching Act, 1833 (3 & 4 Will. 4, c. 90), s. 33, occupiers of houses, buildings and "property" other than land rateable to the poor rate, are to be rated for the purpose of that Act at three times a greater amount than occupiers of land. A canal company was possessed of a canal and towing-path, bridges and a dry dock. *Held* that "property" meant things *ejusdem generis* with houses and buildings, and did not include the canal and its accessories, all of which ought to be rated as land (*Reg.* v. *Neath Canal Co.*, L. R. 6 Q. B. 707; 40 L. J. M. C. 193).

Assessment under special Acts.

A Canal Act provided that the company should not be rated for their tolls, but that they should be rated for the land occupied by the canal and buildings at no higher value or improved rent than other lands adjacent were, or should for the time being be rated, and as if the land had continued in its former state, and had not been used for the purposes of the canal; the court held that the company were rateable for the land and buildings, as other lands and buildings adjacent to them were rated at the time of making the rate, although the latter had risen very much in value by reason of the canal, and the company had in fact been rated, during forty years before that, merely at the value of their lands when the canal was first undertaken (*Rex* v. *Monmouthshire Canal Co.*, 3 A. & E. 619; S. P. *Rex* v. *Leeds and Liverpool Canal Co.*, 7 A. & E. 671; 2 Nev. & P. 540; *Rex* v. *Grand Junction Canal Co.*, (1818) 1 B. & Ald. 289; *Rex* v. *St. Peter's the Great, Worcester*, 5 B. & C. 473; *Rex* v. *Birmingham Canal Co.*, 2 B. & Ald. 570; *Rex* v. *St. Mary, Leicester*, 6 M. & S. 400).

The Grand Junction Canal was by private Act of Parliament to be rated as other lands lying near it, which consisted at that time of fields and garden grounds, and as though it were the property of private individuals; and it was so rated for a great length of time; the land, however, through which it passed afterwards became additionally valuable, by being let on long leases for buildings; and the parish rated the company for this canal according to this additional value. The court held this to be erroneous; the parochial principle by which rating is governed has reference to the value of land as let from year to year, and in this case the rate should be upon the principle of what would be given for the land as land in its natural state let from year to year, with a covenant not to build upon it (*Reg.* v. *Grand Junction Canal Co.*, [1859] 7 W. R. 597; 23 J. P. 404). Subsequently a railway was made on land lying near the canal, and buildings were erected on much of the land lying near the canal, and parts of the adjacent land were made into watercress gardens, and otherwise greatly improved in value. In 1848 the canal company obtained statutory powers to carry on business as carriers. *Held* (1), that the land occupied by the canal was to be rated on the same basis as the open land lying near, the

POOR RATE—PROPERTY RATEABLE—*Canals—continued.*

Sect. 1.

Note.

value of which might be increased from time to time by circumstances; and the buildings of the company on the same basis as the buildings lying near; (2) that the land occupied by the canal lying near the railway was not to be rated in proportion to the improved value of land with a railway upon it; (3) that the rateable value of the canal under the private Act was not affected by the company carrying on business as carriers (*Grand Junction Canal Co.* v. *Hemel Hempstead and King's Langley*, L. R. 6 Q. B. 173; 40 L. J. M. C. 25; 24 L. T. (N. S.) 228; 19 W. R. 433).

A special Act empowered the proprietors of a canal to make rates in respect of vessels, and exempted such rates from all taxes, rates, &c. *Held* that the land occupied by the canal was also thereby exempted (*Rex* v. *Calder and Hebble Navigation Co.*, 1 B. & Ald. 263; S. P. *Erewash Canal Co.* v. *Eastwood*, 4 W. R. 494).

Canal extending through several parishes.

Where a canal extends through several parishes, and the earnings are equal on all parts of it, it is rateable in each parish, in the ratio of the length of canal passing through it, to the whole length of the canal; but as this equality of earning is rarely to be met with, the proper rule is that the rate should be in proportion to the earnings in each parish, and not in proportion to the length of the canal there. The Dudley Canal consisted of three different branches, each having a different rate of tonnage dues, but the whole being one concern and the profits of the whole divided among the proprietors generally; that branch, however, which passed through Kingswinford, earned more per mile than was earned on an average by the whole canal, so that if it were rated in Kingswinford, according to the profits of that branch, less expenses, the rate would be 25*l.* 3*s.* 4*d.*, whereas if it were rated according to the average of the whole line, less the expenses, it would be only 9*l.* 16*s.* 11*d.* The court held that the rate should be 25*l.* 3*s.* 4*d.* (*Rex* v. *Kingswinford*, 7 B. & C. 236; 1 M. & R. 20, approved in *Hull Docks Co.* v. *Sculcoats Union*, [1895] A. C. 136; 64 L. J. M. C. 49; 71 L. T. 642; 43 W. R. 623; 59 J. P. 612; *Rex* v. *Dudley Canal Navigation Co.*, 6 L. J. (O. S.) M. C. 3).

Formerly canals were rated only in the parishes in which the tolls were received; but this mode of rating has long been holden bad, the rate being, not in respect of the tolls, but of the canal. The Trent and Mersey Navigation Company were rated in the township of Finden for so much of their canal and towing-paths as were in that township; it appeared that no tolls were collected there, but the company received elsewhere a mileage toll on all goods conveyed upon that part of the canal; they appealed against the rate; but it was confirmed without argument, the counsel for the company admitting that they were properly rated in Finden (*Rex* v. *Trent and Mersey Navigation Co.*, 1 B. & C. 545; 2 D. & R. 752).

A canal company had two lines of canal, one exempted from rate, the other not, the court held that although the voyage finished on the unexempted line, and the tolls became due and were received there for the whole line, yet the company were not rateable for more than such proportion of the tolls as accrued in respect of the carriage along the unexempted line (*Rex* v. *Leeds and Liverpool Canal Co.*, 5 East, 325).

If one part of the canal yield a greater proportionate amount of tolls than another, the rates must be made accordingly. One-fifth

POOR RATE—PROPERTY RATEABLE—*Canals—continued.*

Sect. 1.

Note.

of the Louth Canal was situate in the parish of Tetney, but three-thirteenths of the whole of the tolls were earned and received in that parish. *Held* that the company should be rated in Tetney upon three-thirteenths of the rateable value of the whole (*Rex* v. *Chaplin*, 1 B. & Ad. 926).

The Stafford and Worcester Canal Company had made a communication between their canal and the river Severn by means of a basin, steam-engine, and two locks, all situate in the hamlet of Lower Mitton; and besides a mileage toll for passing along the line of the canal, they charged an additional toll of 1*d.* per ton on all boats passing from the canal to the Severn, or from the Severn to the canal by means of these locks; they were rated for Lower Mitton, not only for the part of the canal within that hamlet, and the proportionate part of their profits arising from the mileage tolls, but for the basins, locks, and steam-engine above-mentioned, and the whole of the profits derived from them; and against this they appealed, on the ground that they were not rateable wholly in Lower Mitton for the whole of the profits arising from these locks, &c., but rateable in the several parishes through which the canal passed, in the proportion of the length of the canal in each parish, in the same manner as they were rated in respect of the mileage toll; but the court held that they were properly rated in Lower Mitton, upon the whole of the profits derived from the locks, &c. These profits arose, not from the canal generally, but from the locks, basin, and steam-engine alone, which were erected upon land in Lower Mitton. The annual profit of these locks, &c., should be estimated at the rent a tenant would give for them, he paying poor rates, repairs, and all annual expenses necessary for making them productive; and a further deduction should be made from that rent, where the subject of the rate is of a perishable nature, towards the expenses of renewing or reproducing it (*Rex* v. *Lower Mitton*, 9 B. & C. 810; 4 M. & Ry. 711; 8 L. J. (o. s.) M. C. 57).

It being apprehended that the Oxford Canal would be injured by the Grand Junction Canal, which joins it, the Oxford Canal Company were empowered, by way of compensation, to take a certain fixed tonnage duty on all goods passing from one canal to the other, without regard to the distance the same should pass upon the Oxford Canal. The company being rated in the parish of Low, not only for their mile tonnage, but also for this compensation tonnage, in proportion to the length of the canal in that parish, calculating the tolls at their full amount, they appealed, and contended that for this compensation tonnage they were not rateable at all in Low, inasmuch as it was payable, not for the goods passing along the canal, but for passing into or out of it, and that if the company were rateable at all for it, it should be at Braunston, where the Grand Junction Canal joins it. The court held that although this was called compensation tonnage, it was in fact a profit which the company made of their canal, and they were as liable to be rated for it as for their mile tonnage. It was paid to them, not for passing into or out of the canal, but for the use of the whole line of the canal, and of course a proportion of it in respect of that part which was in Low, and the company were rightly rated for it there. The court, however, held, that they should not have been rated on the full amount of their tolls, but for the amount

POOR RATE—PROPERTY RATEABLE—*Canals—continued.*

Sect. 1.

that could be obtained for them by letting them at a rent (*Rex* v. *Oxford Canal Navigation*, 4 B. & C. 74; 6 D. & R. 86).

Note.

Buildings, &c., in connection with canals.

By the special Act of a canal company, it was provided that the lands of the company, whether covered with water or not, and also all dwelling-houses, wharves, warehouses, and lock-houses and other houses of the company should be rateable—the lands according to their quality and quantity, and the dwelling-houses, &c., according to the nature and respective uses, dimensions, and descriptions thereof, and should be charged and assessed in like manner as lands of a like quality, and dwelling-houses, &c., of a like and similar size, nature, dimension, or description in the respective parishes where the same should be situate, were or should be assessed or charged. The lands adjoining the canal were all built upon, and it was sought to assess the canal and towing-path on the following principle: the area occupied by them was assumed to be covered with buildings similar in rateable value to the buildings adjoining the canal, allowing for the necessary roads, &c., and a proportionate part was then taken of such rateable value as represented the rateable value of the lands so covered as distinguished from the buildings; but it was held that the canal ought to be rated in like manner as land of the like quality in the parish uncovered with buildings, and the proposed mode of assessment was therefore incorrect (*Regent's Canal Co.* v. *St. Pancras*, 3 Q. B. D. 73; 47 L. J. M. C. 37; 37 L. T. 637; 26 W. R. 281; and see *Rex* v. *Chelmer and Blackwater Navigation Co.*, 2 B. & Ad. 14; *Rex* v. *Grand Junction Canal Co.*, 1 B. & Ad. 289).

In assessing a canal and premises necessary thereto, such as wharves, engine-house, and reservoirs, the following principle of assessment was held to be correct:—

1. The assessment upon the wharves to be made upon the whole area, each to be taken as a whole, on wharf, land, and buildings, with fixtures and machinery attached, and deriving some additional value from the capacity of being applied to the purposes of the canal.
2. The engine house to be assessed at the rent it was considered reasonable to pay from year to year.
3. The canal proper to be assessed on the gross receipts along the whole line of the canal, allowing certain deductions for repairs, salaries, tenants' profits, &c.
4. The reservoirs to be assessed as land independently of their contributing to the earnings of the canal (*Birmingham Canal Co.* v. *Birmingham*, 19 L. T. (N. S.) 311).

Deductions.

In fixing the amount of a rate on a canal company, the sum paid by the proprietors for poor rate, the expense of collecting the tolls, of repairing the banks, and of supplying the canal with water ought to be deducted from the gross profits (*Rex* v. *Oxford Canal Co.*, 10 B. & C. 163; 5 M. & Ry. 100; 8 L. J. (O. S.) M. C. 62).

Where a canal passes through several parishes, the expense of maintaining the docks, &c., situate in the parish, must not be deducted from the gross earnings of the canal in that parish; as it is not a local expense, the whole line of the canal should be debited with it (*Rex* v. *Coventry Canal Co.*, 1 E. & E. 572; 28 L. J. M. C. 102; 5 Jur. (N. S.) 862; 23 J. P. 100; but see on this point *Reg.* v. *G. W. Ry. Co.*, 15 Q. B. 1085; 7 Rail. Cas. 130; 21 L. J. M. C. 84; 16 Jur. 217; 18 L. T. 285).

POOR RATE—PROPERTY RATEABLE—*Canals—continued.*

Sect. 1.

Note.

Where canal leased to another company.

Under an Act of Parliament the Salford Union Railways and Canal Company granted a lease in perpetuity of their undertaking to the London and North-Western Railway Company, under the provisions of which a canal, part of their undertaking, was worked and managed by a joint committee, in the name of the canal company, and was worked by the railway company, which made up to the shareholders of the other company the deficiency in the earnings of their undertaking, in accordance with the guarantee in the lease of the payment of certain rents or sums of money in the nature of rent. It was held that the annual rent or sum of money received by the Salford Union Railways and Canal Company from the London and North-Western Railway Company was not to be taken into account in determining the rateable value of the canal (*Reg.* v. *Lapley and Penkridge*, 9 B. & S. 568).

NAVIGABLE RIVERS.

If the proprietors of a river navigation be also the owners of the soil of the bed of the river, they are rateable for it, in the same manner as the proprietors of canals (*Rex* v. *Earl of Portmore*, 1 B. & C. 551; *Reg.* or *Bishopwearmouth* v. *Earl of Durham*, 2 E. & E. 230; 28 L. J. M. C. 232; 5 Jur. (N. S.) 1306; and see *M'Cannon* v. *Sinclair*, 28 L. J. M. C. 247). But if they be not owners of the bed of the river (which is usually the case) they are not rateable; although formerly it seems to have been holden otherwise (see *Rex* v. *Cardington*, Cowp. 581).

By an Act of Parliament the surplus tolls of a river navigation were directed to be laid out in repairing the bridges of the county of Chester, and in defraying such other public charges upon the county as the justices should direct; the court held, that as the statute did not vest the bed of the river in the trustees of the navigation, they were not rateable for it, not being occupiers of the land covered by the water; but independently of this, as the surplus tolls were to be applied to public purposes, and could not be made the subject of private profit, the trustees were not rateable in respect of them (*Rex* v. *Weaver Navigation*, 7 B. & C. 70 n.). But in rating the Severn Navigation, and in the later case of *Reg.* v. *Weaver*, it was admitted that both cases were governed by the decision in the House of Lords in the *Mersey Docks Case* (11 H. L. C. 443), and judgment was given for the Crown (*Reg.* v. *Severn Navigation Co.*, 14 L. T. (N. S.) 36; *Reg.* v. *Weaver Navigation*, 14 L. T. (N. S.) 36.

Ownership or easement.

By an Act of Parliament certain persons were authorized to make the rivers Mersey and Irwell navigable from Manchester to Liverpool; and for this purpose to clear, cleanse, scour, open, enlarge, or straighten the river, and to dig and cut the banks, to make new cuts, trenches, or passages for the water through the adjoining lands, to build bridges, locks, &c.; first giving satisfaction to the owners of lands dug or cut, &c.; and in consideration of the expenses to be incurred, the company were authorized to take certain tolls. The proprietors being rated for the tonnage dues, the court held that they could be rated only for the new cuts, and for the weirs, locks, and dams erected on thir own lands within the township—but not in respect of the navigation, for they had no property in the bed of the river, and could not therefore be said to be occupiers of it, but had a mere easement over it (*Rex* v. *Mersey*

POOR RATE—PROPERTY RATEABLE—*Navigable Rivers—con.*

Sect. 1.

Note.

and Irwell Navigation, 9 B. & C. 95; 4 M. & R. 84; *Rex* v. *Thomas*, 9 B. & C. 114; S. C. *Rex* v. *Avon Co.*, 4 M. & R. 23).

By an Act of Parliament certain persons were authorized to make the river Aire navigable, and for that purpose to cleanse and scour the same, dig and cut the banks, make cuts, take tolls, &c.; and by a subsequent Act, reciting that the legal estate and interest in the navigation of the said river, and divers messuages, mills, warehouses, buildings, lands, tenements, &c., were vested in trustees, they were authorized by deed to sell and convey in fee such messuages, mills, lands, and tenements belonging to the company, or to convey in fee by way of mortgage, as well the said navigation, and also all or any of the messuages, &c., being the property of the company. Being rated in the township of Brotherton, upon the proportionate part of the profits, according to the length of the navigation within that township, the company appealed; and the respondents admitted that if the bed of the river was not vested in the company, they could not be so rated; but it was contended that it appeared evident from the second Act of Parliament, which recited that the legal estate was vested in the company, and which enabled them to mortgage it in fee, that not only the water, but the land covered by it, was vested in the company: the court, however, held that the word "navigation" in these Acts imported an incorporeal hereditament only, which the company were thereby enabled to mortgage; and as they had but an incorporeal hereditament in the bed of the river, they were not rateable to the poor as the occupiers or owners of it (*Rex* v. *Aire and Calder Navigation*, [1829] 9 B. & C. 820); nor were they rateable in respect of a dam made to hold up the water for the purposes of the navigation (*Rex* v. *Aire and Calder Navigation*, [1832] 3 B. & Ad. 139; see also *ib.*, 3 B. & Ad. 533).

A company were authorized by a special Act to make a river navigable, and to make cuts, towing-paths, &c., making compensation to the owners of the land which might be taken for those purposes; this compensation was to be settled by certain commissioners, who awarded that the company should pay thirty years' purchase for the land so taken, and it was paid accordingly: the court held that this had the effect of vesting the property in the lands so taken in the company, and that they were accordingly rateable for the cuts and towing-path (*Bruce* or *Bath River Navigation Co.* v. *Willis*, 11 A. & E. 463; see also *Badger* v. *South Yorkshire Railway and River Dun Navigation Co.*, 1 E. & E. 347; 28 L. J. M. C. 118; 7 W. R. 130; *Rex* v. *Chelsea Waterworks Co.*, 5 B. & Ad. 156; *Manchester, Sheffield, and Lincolnshire Rail. Co.* v. *Doncaster Union*, [1895] A. C. 735 n.; 71 L. T. 585; 10 T. L. R. 567).

When rateable, rateable in same way as canals.

When river navigations are rateable, they are rated in precisely the same manner as canals. Formerly, where the navigation lay within several parishes, the proprietors were deemed to be rateable only in those parishes where the tolls were received, and then in proportion to the tolls received (*Rex* v. *Aire and Calder Navigation*, [1788] 2 T. R. 660; *Rex* v. *Page*, 4 T. R. 543). But this mode of rating has long been exploded. A tenant of a river navigation passing through several parishes was rated in the parish of Bengworth for "river tonnage" in respect of goods carried along the line of navigation, but landed at a wharf locally situate within Bengworth; the court held that a rate upon the whole amount of the

POOR RATE—PROPERTY RATEABLE—*Navigable Rivers—con.*

Sect. 1.

Note.

tonnage dues on goods landed in Bengworth could not be considered as a rate upon that part of the river locally situate within Bengworth, but as a rate upon the parts of the river in the different parishes through which the goods were carried, and therefore could not be supported (*Rex* v. *Milton*, 3 B. & Ald. 112).

A navigable river was in two parishes, one-half of it, to the centre, being in Fornham All Saints, the other in Fornham St. Martin, but the proprietor was rated for the whole of the tolls in Fornham All Saints, where the goods were landed and the tolls paid; the court held that the proprietor should be rated in each parish through which the navigation passed, in proportion to the part of that navigation within that parish, and not rated in one parish for the whole (*Rex* v. *Palmer*, 1 B. & C. 546; 2 D. & R. 793; *Rex* v. *Portmore, Earl of*, 1 B. & C. 551).

A navigable river, the soil of which was vested in trustees, passed through the parishes of A., B., and W.; a gross sum per ton was charged on vessels navigating the whole line, and less sums for shorter distances; the court held that the trustees were to be rated to the poor in each parish, with respect to the tolls for the whole line, in the ratio of the length of the river passing through the parish to the length of the whole line, and with respect to the tolls for the shorter distances, in the ratio of the distance passed through the parish to the whole distance passed over; and from the gross receipts of the trustees, the amount of the necessary repairs and expenses must be deducted, and as these were equal along the whole line, a deduction should be made in each parish in the ratio of the length of the navigation passing through it; from the residue also must be deducted ten per cent. as an allowance for tenant's profits; but no allowance was to be made for certain compensations paid by the trustees to individuals along the line (*Rex* v. *Woking*, 4 A. & E. 40).

Assessment under special Act.

An Act of Parliament establishing a river navigation company, after enabling them to purchase lands, &c., for the purpose of the navigation, enacted that they should thereafter from time to time be rated and charged to all parochial rates, &c., for their lands, warehouses, &c., "in the same proportions as other lands, grounds, and buildings adjoining to or lying near the same are or shall be rated and charged"; being rated, however, according to the value of their lands as converted to the purposes of the navigations, and not in the same proportion as other lands adjoining, they appealed: and the court held that they should have been rated for their lands and buildings, upon a value estimated according to the value of the adjoining land and buildings, and not according to their actual productive value to the company (*Rex* v. *Chelmer and Blackwater Navigation Co.*, 2 B. & Ad. 14).

Toll house.

Public navigation commissioners who have a toll collector on the spot to collect rates, though themselves living elsewhere and doing nothing more than merely paying over the proceeds of the tolls towards the purposes specified by their statute, occupy the works by means of their collector, and are properly rated as occupiers (*Severn Navigation Commissioners* v. *Tewkesbury*, 29 J. P. 823).

CEMETERIES, &c.

By the Burial Act, 1855 (18 & 19 Vict. c. 128), s. 15, land acquired for burial grounds under the Burial Acts is not, while

POOR RATE—PROPERTY RATEABLE—*Cemeteries, &c.—con.*

Sect. 1.

Note.

used for such purposes, to be assessed to the poor rate at a higher value or more improved rent than the value or rent at which the same was assessed at the time of such acquisition.

Rateability.

A cemetery company were empowered by private Act to purchase and hold land to be used exclusively for purposes of burial, and to sell the exclusive right of burial, either in perpetuity or for a limited time in the vaults made by them, and the right to make family vaults with the right of burial therein, and also the right of single interment in any of the vaults made by the company, or in the open ground of the cemetery, all of which rights were to be exercised subject to the regulations of the company, who were to keep the cemetery, &c., in repair. It was held that the company were rateable as being the occupiers of the vaults and family graves, as well as of the common burial ground (*Reg.* v. *St. Mary Abbotts, Kensington*, or *Reg.* v. *Kensington*, 12 A. & E. 824; 10 L. J. M. C. 25; 4 P. & D. 327; 5 Jur. 170).

A cemetery company sold plots of ground for graves, conveying to the purchasers the fee simple thereof in trust that the purchasers might use the plots for a burying place according to the rules of the company, and, subject to that, in trust for the company; the company were, under such circumstances, held liable to be rated as occupiers of the cemetery; and the profits made from the sales were to be included in the rateable value of the cemetery (*Reg.* v. *Abney Park Cemetery Co.*, L. R. 8 Q. B. 515; 42 L. J. M. C. 124; 29 L. T. (N. S.) 174; 37 J. P. 828).

Deductions.

A cemetery company were rated for their cemetery; they admitted that they were rateable, but claimed to have deducted the amount of salaries paid to directors and auditors. The court held that such expenses could not be allowed, for if the cemetery were let to a tenant, he would not have to pay any such salaries (*Reg.* v. *St. Giles, Camberwell*, 14 Q. B. 571; 19 L. J. M. C. 126; 14 Jur. 519; but see *Reg.* v. *Southampton Dock Co.*, 14 Q. B. 587; 20 L. J. M. C. 155).

CHARITABLE INSTITUTIONS, HOSPITALS, &C.

Rateable in same manner as other premises.

By the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 263, lunatic asylums are to be assessed on the same basis as other lands, &c., in the same district. Formerly they were partially exempt. (See *Reg.* v. *Fulbourn*, 6 B. & S. 451; 34 L. J. M. C. 106.)

Hospital lands are chargeable to the poor as well as other lands, for, *per* Holt, C.J., "No man, by appropriating his lands to an hospital, can discharge or exempt them from taxes to which they were subject before, and throw a greater burden upon his neighbours" (*Anon.*, 2 Salk. 527).

"The judges of the court have attentively considered the two cases before them in connection with the decision of the House of Lords [*i.e.*, *Jones* v. *Mersey Docks*, 11 H. L. C. 443], and they were unanimously of opinion, unless the counsel in the case could show otherwise, that all buildings of a charitable or eleemosynary character must be rated in future to the poor rate. The only exceptions to such rates were those stated in the judgments of the House of Lords. That House had now given a legislative exposition of the statute of Elizabeth which the court must follow. The counsel for the charities did not think that they could contend

POOR RATE—PROPERTY RATEABLE—*Charitable Institutions, Hospitals, &c.—continued.*

Sect. 1.

Note.

against that decision, and must submit to judgment against them. The result of putting a more strict construction upon the statute of Elizabeth is, we think, not one to be regretted. Every exemption from a tax or rate, or other public impost, in favour of a charity, constrains the taxpayer, or ratepayer, or other person bearing impost, into a donor to the charity, in addition to the true donor. While the property was in the hands of the donor it paid rates and taxes in common with property generally, or at least was subject to any burden which might at any time be imposed on property generally. On no just principle could the owner, by any disposition of the property, free it from the common burden. He could only make a disposition of what remained, or would otherwise remain for his own proper enjoyment" (*Ilkley Hospital* v. *Ilkley; Reg.* v. *British Orphan Asylum*, [1865] 41 L. T. J. 42; following *Jones* v. *Mersey Docks*, 11 H. L. C. 443). All previous cases, therefore, in which occupiers of charitable institutions have been held exempt from rateability on the ground that no profit was derived from the occupation, or if any was derived was applied to charitable or pious uses (*e.g.*, *Rex* v. *St. Bartholomew's Hospital*, 4 Burr. 2435; *Rex* v. *St. Luke's Hospital*, 2 Burr. 1053; 1 W. Bl. 249; *Reg.* v. *St. George the Martyr, Southwark*, 10 Q. B. 852; 16 L. J. M. C. 129; *Rex* v. *Walds*, 2 Cald. 358), must now be considered as overruled. And for the same reason the principle on which it was decided in some cases (*e.g.*, *Rex* v. *St. Giles, York*, 3 B. & Ad. 573; *Reg.* v. *Croydon; Reg.* v. *Sterry*, 12 A. & E. 84; 4 P. & D. 122; *Reg.* v. *Temple*, 2 E. & B. 160; 22 L. J. M. C. 129; 17 Jur. 572), that the occupiers of certain charitable institutions were rateable, viz., because a profit was in fact derived from the institutions, is no longer applicable; their rateability depending, not on the question whether the lands, &c., occupied by them yield a pecuniary profit, but whether in the circumstances they could be of a net value to any occupier.

Public and private charities.

There is no distinction for rating purposes between lands, &c., occupied for the purposes of public charity and those occupied for the purposes of private charity; but where by a local Improvement Act, "any houses or buildings used and occupied exclusively for the purposes of *public charity*," were exempted from rateability; it was held that an orphanage founded and used for the purpose of boarding, lodging, clothing, and educating the children of deceased railway servants, and supported partly by subscriptions from railway servants, but chiefly by donations from the public, was open to such an extensive class of the community of the kingdom that the premises were used and occupied exclusively for the purposes of "public charity" within the meaning of the Act, and, therefore, were exempt from rateability (*Hall* v. *Derby Sanitary Authority*, 16 Q. B. D. 163; 35 L. J. M. C. 21; 54 L. T. 175; 50 J. P. 278).

Application of revenue immaterial.

St. Thomas Hospital was founded by charter of Edward VI., and lands were given to, and the funds arising from the property vested for the purposes of the charter in the mayor and corporation of London. The charter directed the appointment and payment of the officers necessary for such an establishment, and directed that the residue of the revenues should be spent for "the use and maintenance of the poor sick and infirm folk of the said hospital": it was held that, although the mayor and corporation of London

POOR RATE—PROPERTY RATEABLE — *Charitable Institutions, Hospitals, &c.—continued.*

Sect. 1.

Note.

derived no profit from the hospital, they were nevertheless rateable in respect of it (*St. Thomas' Hospital* v. *Stratton*, L. R. 7 H. L. 477; 45 L. J. M. C. 23; 23 W. R. 882).

The Baptist Missionary Society occupied premises solely for religious and charitable purposes; other religious societies also occupied portions of the same premises, for which they contributed sums equal only to the expenses of lighting, fire and cleansing, but no profit was made from such contributions; works published by the Baptist Missionary Society were sold upon the premises under cost price, and the proceeds devoted to the general purposes of the society; the whole income was applied to religious and charitable objects, and no member of the society derived any private advantage whatever from his connection with the society: it was held that the society were rateable (*Reg.* v. *Baptist Missionary Society*, 10 Q. B. 884; 18 L. J. M. C. 194; 3 N. S. C. 555; 13 Jur. 748).

Officers having beneficial occupation.

If any of the officers of such a charitable institution have an exclusive beneficial occupation of any part of the building, &c., he may be separately rateable for it. A house and garden, two acres and a half of land, and a rent-charge of 25*l.* a year, were given for the purposes of a free school, for the teaching of ten children of the poor inhabitants of Woodbridge, and the master was to have the house for use of himself and his family without payment of rent, &c., together with the garden, land, and rent-charge; one Dyer, being appointed master, occupied the house and garden but let the land to a tenant, who was rated for it; it was objected that Dyer had been improperly omitted to be therein rated for this house and garden: and the court held that he was rateable (*Rex* v. *Catt*, 6 T. R. 332).

Some dwelling-houses were devised to a township for the maintenance of a schoolmaster, who was to instruct the poor of the township gratuitously, and the property was accordingly let to tenants, who paid their rents to the trustees, by whom the money was immediately paid over to the schoolmaster: it was held, that the tenants were rateable for the property they thus occupied, although the testator in his will desired that the township would exempt the property from all rates, and for 125 years previously to the present rate it had been accordingly exempted (*Rex* v. *Ellis*, 12 L. J. M. C. 20).

The treasurer of the Church Missionary Society, which is maintained entirely by voluntary subscriptions, was rated in London for the house there occupied by them, and it appeared that no person resided in the house, and the treasurer received no salary nor any other benefit from it, and attended there merely once a week to inspect the society's affairs: the court held that he was not rateable for it (*Reg.* v. *Wilson*, 12 A. & E. 94; 9 L. J. M. C. 100).

A chaplain and a medical officer of a lunatic asylum were held rateable for their dwellings provided by the asylum (*Congreve* v. *Upton*, 4 B. & S. 857; 33 L. J. M. C. 83; 10 Jur. (N. S.) 538; 9 L. T. 684; 12 W. R. 403).

The objects of the charity may be rateable.

The objects of the charity themselves may in strictness be rateable, if they appear to have the exclusive beneficial occupancy of rateable property under the charity. The Merchant Tailors' Company purchased two acres of land, which before had usually been

POOR RATE—PROPERTY RATEABLE — *Charitable Institutions, Hospitals, &c.—continued.*

Sect. 1.

Note.

rated to the poor, built almshouses on the land, and gave the houses to the widows of poor freemen of their company, to live in rent free, but removable at pleasure; these occupants, being rated to the poor, appealed against the rate; but the court held that they were properly rated; they were the occupiers of property from which they derived a benefit, and therefore rateable (*Rex* v. *Green*, 9 B. & C. 203; S. P. *Rex* v. *Munday*, 1 East, 584).

CHURCHES, CHAPELS, &C.

By the Poor Rate Exemption Act, 1833 (3 & 4 Will. 4, c. 30), churches, chapels, meeting houses, &c., exclusively appropriated to religious worship, are not rateable. (See notes to that statute, *post*.)

DOCKS, HARBOURS AND PIERS.

Docks rateable if occupation beneficial.

The Hull Dock Company, by special Act, purchased certain land in Sculcoates, which was before rateable to the poor, and upon it and other lands in Hull they built a dock for shipping; about one-third of the dock was in Sculcoates, the remainder in Hull, and they were rated in Sculcoates upon one-third of their net profits: the court held that they were rightly rated; this was landed property in the parish clearly liable to be rated before it was converted into a dock; and there was nothing in the Act establishing the dock company which exempted it from being so rated since (*Rex* v. *Hull Dock Co.*, [1786] 1 T. R. 219; see *Reg.* v. *Bristol Dock Co.*, 1 Q. B. 535; 10 L. J. M. C. 105). The same company appealed against a rate in Sculcoates on the ground that they had expended on the dock in that year much more than their dues amounted to; that they were obliged to take down and rebuild the lock and entrance basin, and during that time no ships could come into the docks: the court held that they were properly rated (*Rex* v. *Hull Dock Co.*, [1816] 5 M. & S. 394).

Docks vested by statute in trustees for purposes of public advantage, the trustees being authorized to levy tolls upon such of the public as use the same, are not thereby exempted from being rated; such exemption can only arise from express words in the statute, or from words which by necessary implication prohibit the application of the tolls towards the payment of poor rates (*Reg.* v. *Birkenhead Docks Trustees*, 2 E. & B. 148; 21 L. J. M. C. 209; 17 Jur. 162).

Destination of profits immaterial

It was formerly held that where by Act of Parliament the profits arising from a dock were not to be distributed among the proprietors, but were to be applied to the payment of the debt contracted in making the dock, and afterwards the dues were to be reduced so as to answer the repairs and expenses only, the dock was not the subject of poor rate (*Rex* v. *Liverpool*, 7 B. & C. 61). In a somewhat similar case, the decision proceeded upon the ground that there might be a surplus, and the Act did not direct in what manner it was to be applied; so the court held the docks to be rateable (*Reg.* v. *Birkenhead Docks Trustees*, 2 E. & B. 148; 21 L. J. M. C. 209; 17 Jur. 162). And in another, the dock commissioners were held liable to be rated on the ground that the parties benefited were only a particular section of the public, viz., those who used the docks, and not the public generally (*Reg.* v. *Chirton*, or *Tyne Improvement Commissioners* v. *Chirton*, 1 E. & E. 516; 28 L. J. M. C. 131;

POOR RATE—PROPERTY RATEABLE—*Docks, Harbours and Piers—continued.*

Sect. 1. Note.

5 Jur. (N. S.) 865). It was finally held by the House of Lords, that the trustees of docks, whether the docks are considered as public property or not, and whatever the destination of the profits arising from their use, are rateable on the ground that they do not come under any exemption from the statute of Elizabeth (*Jones* v. *Mersey Docks Co.*, 11 H. L. C. 443; 35 L. J. M. C. 1; 11 Jur. (N. S.) 746; 12 L. T. (N. S.) 643; 13 W. R. 1069; *Leith Harbour and Docks Commissioners* v. *Inspector of the Poor*, L. R. 1 Sc. App. 17; *Clyde Navigation Trustees* v. *Adamson*, 4 Macq. 931).

Prohibition from making profits.

Where, however, a dock company were prohibited by statute from taking any tolls for the use of certain railway and tramway lines which formed part of the dock system, it was held that although a tenant might be found who would pay a rent for the lines if such a rent could legally be exacted by the dock company, yet since no rent could be earned by the dock company in consequence of the statutory prohibition, the rent that could have been earned but for that prohibition ought not to be taken into consideration in determining the rateable value of the dock company's property (*Sculcoates Union* v. *Hull Docks Co.*, [1895] A. C. 136; 64 L. J. M. C. 49; 71 L. T. 642; 43 W. R. 623; 59 J. P. 612).

Docks in several parishes.

A dock company constructed docks in more than one parish; all these docks formed one establishment, under one set of officers, and but one set of accounts were kept for all, and no separate rates or dues were payable for each, and whether a ship used all or only one of the docks, the rates or dues were payable on her first entrance: being rated in Hull for the docks there on a value calculated from the profit made of these docks, the dock company appealed, insisting that the net rateable value of all their docks should be ascertained, and that they should be rated in Hull only in the proportion that the area of the docks there bore to the joint areas of all their docks. *Held* that the proper mode of rating these docks was, by ascertaining the rateable value of all the docks, in and out of Hull, by making the proper deductions from the gross amount of tonnage dues received by the company from all their docks, and then this entire rateable value should be apportioned among the several parishes within which the docks were situate, in proportion to the areas of the docks within each parish (*Reg.* v. *Hull Dock Co.*, [1852] 18 Q. B. 325; 21 L. J. M. C. 153; 16 Jur. 543). The judges admitted, however, that this was not the plan that ought to be adopted if it had been possible to ascertain what were the earnings of the docks in the particular parishes; it was not followed in the case of the Mersey Docks, where the dock company, under Acts of Parliament, owned and occupied docks in different parishes on both sides of the Mersey, which docks by the Acts were to constitute one estate under one management. Certain rates were charged to the vessels entering any of the docks, and a vessel, having paid for entering one of the docks, could use any of the docks of the same class on either side of the river. The docks on the Liverpool side were much more frequented than those on the Birkenhead side of the river: it was held that for purposes of the poor rate the docks on the Liverpool side were not to be treated as one system of docks with those on the Birkenhead side; but the earnings of each set must be kept distinct, and each set rated

POOR RATE—PROPERTY RATEABLE—*Docks, Harbours and Piers—continued.*

Sect. 1.

according to its net earnings (*Mersey Docks Co.* v. *Liverpool*, L. R. 7 Q. B. 643; 41 L. J. M. C. 161; 26 L. T. (N. S.) 868; 20 W. R. 827).

Note.

The House of Lords in 1895 laid it down as the rule that, in assessing to the poor rate docks which extend over more than one parish, the rateable value should, whenever it is possible, be ascertained by attributing to each parish the receipts earned and the expenses incurred in that parish, and not by obtaining a rateable value for the whole of the docks and then allocating this value to each parish in proportion to the water area of the docks of that parish (*Sculcoates Union* v. *Hull Docks Co.*, [1895] A. C. 136; 64 L. J. M. C. 49; 71 L. T. 642; 43 W. R. 623; 59 J. P. 612).

Warehouses, &c., in connection with docks.

Warehouses and other adjuncts to a dock are rateable at their net annual value (*Peto* v. *West Ham*, 2 E. & E. 144; 28 L. J. M. C. 240; 7 W. R. 586).

The appellants were the owners and occupiers of docks, and of warehouses, workshops, sheds, &c., connected with their docks, and were rated to the poor rate separately for each, Nos. 1—8 being the warehouses, &c., No. 9 the docks. They were compelled by their Act of Parliament to keep up the docks, and the working expenses, &c., of the subject of the rate, taken as a whole, necessary to maintain the property in a condition to produce the income derived from it, exceeded the income, the chief expense being the keeping up the docks and basin No. 9. The premises in the other eight items were each capable of separate beneficial occupation apart from their connection with the docks; but each was enhanced in value by reason of its proximity to and connection with the docks. *Held* that the separate rating of items 1—8 was right; for that, as each subject was capable of beneficial occupation, it was therefore rateable, notwithstanding its connection with the docks, which, as a whole, produced no profit; and that they ought to be rated at the enhanced value, which was what a tenant from year to year would be expected to give for them (*Mersey Docks Company* v. *Overseers of Birkenhead*, L. R. 8 Q. B. 445; 42 L. J. M. C. 141; 29 L. T. (N. S.) 454; 21 W. R. 913).

Rateable value, how arrived at.

The Southampton Dock Company were rated for their dock, and for the cranes, steam-engines, and other ponderous machinery attached to the freehold and essential to the business of the company, but which might be detached as easily as tenants' or trade fixtures. The company appealed against the rate on several grounds: (1) on the ground that the cranes, &c., though attached to the freehold, were in fact personal stock or stock-in-trade, for which they were not rateable; (2) that they were entitled to have deducted the expenses of a steam-tug which they kept for conveying ships in and out of the docks; (3) that a sum should be deducted for management, which had formerly been allowed to the directors, and which a tenant would expect to be deducted in calculating the rent he should pay, if the docks were let; (4) that the income tax, in respect of the dock, should be deducted. Upon a case stated, the court held that the company were clearly rateable for the cranes, steam-engines, &c., fixed to the freehold, and that the point had been long settled; that the income tax ought not to be deducted, as it was not a tax upon the subject-matter, but upon the income of the occupier; that the expenses of the steam-tug ought to be deducted, being a necessary expense incurred in producing

Deduction for directors' salaries, &c.

POOR RATE—PROPERTY RATEABLE—*Docks, Harbours and Piers—continued.*

Sect. 1.

Note.

the profit derived from the dock; and (after some hesitation) the court held that a sum should be deducted for management, such as would be a reasonable remuneration to a tenant for his personal trouble and the exercise of his skill and judgment in the management, over and above the sum deducted for interest on capital and for tenants' profits (*Reg.* v. *Southampton Dock Co.*, 14 Q. B. 587; 20 L. J. M. C. 155; 15 Jur. 268; see, as to directors' salaries, *contra*, *R.* v. *St. Giles, Camberwell*, 14 Q. B. 571; 19 L. J. M. C. 126).

Tenants' profits.

In the case of the Mersey Docks it was held that in assessing the harbour board no deduction should be allowed for tenants' profits, nor for interest upon their debt; that the value of the town dues ought not to be added to the assessment; that the board were entitled to a deduction for average deterioration as well as for the actual repairs of each year; and that the expenses of collecting the rates, which should be deducted from the amount, might fairly be computed by dividing the whole expenses of collecting the whole of the revenue of the board rateably according to the respective amounts of dock rates and town dues (*Mersey Docks and Harbour Board* v. *Liverpool*, L. R. 9 Q. B. 84; 43 L. J. M. C. 33; 29 L. T. (N. S.) 454; 22 W. R. 184; 38 J. P. 21).

A Dock Act gave commissioners power to remunerate themselves out of the dock funds for their services, and in the deductions to be made in the assessment of the dock they claimed, under the head of "disbursements," a sum as "allowance for direction," and another sum for watching, which was done by a police boat, provided and paid for out of other than dock funds. They also claimed, under the head of "movable plant," a deduction for a steamboat used for towing barges, when filled with mud, out to sea and back; and under the head of "capital for carrying on the dock," for "cash balance," and for "stores in hand," and also a deduction for rates and taxes on the gross rateable value of the dock. With reference to these several claims it was held (1) that the deduction for direction and watching, and for cash balance ought not to be allowed; (2) that the deduction for the steamboat was not allowable, while it was used only for the work of constructing the dock, but if it became necessary for permanent use in removing silt, it would be a deduction in future rates; (3) that the deduction in respect of stores on hand ought to be allowed; (4) that the allowance in respect of rates and taxes should be upon the net rateable value of the property, after the rates and taxes themselves have been deducted (*Tyne Improvement Commissioners* v. *Chirton*, (1863) 32 L. J. M. C. 192; 6 L. T. (N. S.) 489). The probable amount of the poor rate itself may be deducted (*Rex* v. *Hull Dock Co.*, 3 B. & C. 516).

Wharves, &c., leased by dock company to other companies.

A railway company were assessed to a poor rate in respect of the line of railway, sidings, wharf, and tips occupied by them. Certain trustees were in occupation of docks adjacent to the wharf and tips. A sum, part of the rateable value upon which the company were rated, was made up of the yearly value of wharfage rates which were to be paid to the trustees, under an agreement for a lease of the wharf to the company by the trustees. By this agreement the company were to procure all the trade which they might bring for shipment to be shipped at the docks. *Held* that the company could not, by such an arrangement with the trustees, free

POOR RATE—PROPERTY RATEABLE—*Docks, Harbours and Piers—continued.*

Sect. 1.

Note.

themselves from liability to be rated in respect of the value of the hereditaments which they occupied, and that although the wharfage rates were not received by them, they must be taken into account as enhancing the value of the occupation (*Reg.* v. *Rhymney Rail Co.*, L. R. 4 Q. B. 276; 10 B. & S. 198; 38 L. J. M. C. 75).

Appellants occupied two wharves, at a yearly rent, as tenants under the trustees of the Bute Docks. In respect of goods shipped from or upon the wharves, the appellants paid to the trustees a fixed sum, which by the Dock Act was authorized to be received in respect of all goods landed or loaded upon or from the wharves, in addition to the tonnage rates paid by the ships passing into or out of the docks. No dues were charged on goods brought upon the wharves and not shipped into the dock. *Held* that the dues were paid in respect of the use of the wharves, and that in assessing the wharves to the poor rate they were to be taken into account in ascertaining the rateable value, and that the appellants were liable to be rated in respect of them (*Reg.* v. *Dowlais Iron Co.*, 10 B. & S. 208).

By the Mersey Docks Act (21 & 22 Vict. c. xcii.), the board may, from time to time, upon such terms and subject to such restrictions and regulations as they think proper, appropriate any particular portion of any dock, quay, warehouses, or sheds for the exclusive accommodation and use of any company, &c., for the reception of their vessels; and the board have power of imposing a quay-rent by way of penalty on goods remaining beyond a certain time on any quay. The board, by letter, appropriated for the use of the appellants' steamers certain berths, with the sheds attached, adding, "It is to be understood that this is a provisional agreement only, and made during the pleasure of the board." The appellants used for several years the quay space and sheds for loading and discharging their steamers. The sheds were in one range and were kept locked at night, the key of one lock being kept at the custom house, the key of the other kept by the appellants. Occasionally, when an appropriated berth was not occupied by any of the appellants' steamers, it was used, under the direction of the dock master, by other vessels, which vessels then also used the quay space and sheds attached to the berth, without the consent of the appellants being asked. The board also exercised their right of enforcing payment of the penal quay-rent on goods not the appellants', allowed to lie too long on the quay space appropriated to the appellants; and the board retained this rent, and did not account to the appellants for it. The board also appropriated to the appellants a further space as a coal depôt, by a resolution, "That it was to be used for no other purpose and on sufferance only, upon their agreeing to pay one penny per square yard per week, and engaging to remove the coal at any time upon one week's notice." The appellants having been rated to the poor rate in respect of their alleged occupation of the above premises, on appeal: *Held* that the board had not parted with the exclusive possession to the appellants, and that the board, therefore, and not the appellants, were rateable (*Allan* v. *Liverpool*; *Inman* v. *West Derby Union and Kirkdale*, L. R. 9 Q. B. 180; 43 L. J. M. C. 69; 30 L. T. (N.S.) 93; 22 W. R. 330).

Harbour dues.

By a local Act, lands were granted to the dock company by the Crown, with power to make a dock, wharves, &c., and in

POOR RATE—PROPERTY RATEABLE—*Docks, Harbours and Piers—continued.*

Sect. 1.

Note.

consideration of the expense attending the same, and of keeping them afterwards in repair, certain tonnage duties were made payable to the company for every ship going into or coming out of the harbour, basin, or docks, within the port of Kingston-upon-Hull, or loading or unloading within the port: the basin and docks belonged to the company, being erected upon their land; the harbour and the rest of the port did not; but all vessels entering the port paid these duties to the company, whether they entered the basin or docks or not; it was holden that the company were liable to be rated for all the tonnage duties they received for ships entering their basin or docks, but not for the tonnage duties received from ships entering the harbour and other parts of the port, which did not enter the basin or docks (*Reg.* v. *Hull Dock Co.*, 7 Q. B. 2; 14 L. J. M. C. 114; 9 Jur. 442), and generally where harbour dues and dock dues are separable, the amount received by the dock company for harbour dues must not be taken into calculation in assessing the rateable value of the dock (*Reg.* v. *Berwick Assessment Committee*, 16 Q. B. D. 493; 55 L. J. M. C. 84; 54 L. T. 159; 50 J. P. 71).

Harbour commissioners who were not owners or in occupation of the soil of the harbour were empowered by statute to take "harbour dues" from every vessel entering the harbour or departing therefrom, or remaining therein, and "goods dues" in respect of all goods shipped or unshipped within the harbour. They were also empowered to purchase land and make quays, but they had no power to charge or take dues in respect of the use of the quays. The facilities for berthing vessels alongside the quays, &c., caused a greater number of vessels to enter the harbour than would otherwise have entered it, and in consequence increased the amount of harbour dues: but vessels could be berthed, &c., in other places in the harbour not occupied by the commissioners, and the same dues were payable whether vessels entering the harbour used the commissioners quays or not; it was held that the tolls or dues received by the commissioners from vessels using their quays could not be taken into account as enhancing the rateable value of those quays (*Blyth Harbour Commissioners* v. *Tynemouth*, [1894] 2 Q. B. 675; 63 L. J. M. C. 274; 71 L. T. 34; 59 J. P. 4; approving *Lewis* v. *Swansea*, 5 E. & B. 508; 25 L. J. M. C. 33).

Dues levied upon ships coming into the river Orwell within a certain distance of a dock there, although not using the dock, were held to enhance the value of the dock and to be properly taken into consideration in assessing the rateable value of the dock (*Ipswich Dock Commissioners* v. *St. Peter's, Ipswich*, 30 J. P. 820).

Anchorage and beaconage tolls.

Anchorage and beaconage tolls are rateable in all the parishes in which the port is situate and to which ships paying the toll come, in the proportion of the number of ships coming into each of the parishes respectively (*Reg.* or *Bishopwearmouth* v. *Durham, Earl of*, 2 E. & E. 230; 28 L. J. M. C. 232; 5 Jur. (N. S.) 1306).

Occupation of harbour.

Harbour commissioners were held not to be the occupiers of the entrance to the harbour; their occupation of piers at the entrance to prevent the channel from silting up, and their right to take tolls, were also held to be too remote to be connected for rating purposes (*New Shoreham Harbour Commissioners* v. *Lancing*, L. R. 5 Q. B. 489; 39 L. J. M. C. 121; 22 L. T. (N. S.) 434).

A local Act gave harbour commissioners power to take tolls on

POOR RATE—PROPERTY RATEABLE—*Docks, Harbours and Piers—continued.*

Sect. 1.

shipping anchored in the harbour. *Held* that the commissioners had no rateable occupation of the harbour (*Falmouth Harbour Case*, Q. B., June 10th, 1875: unreported).

Note.

Piers.

So much of a pier as is beyond low-water mark of the sea is not liable to be rated (*Blackpool Pier Co.* v. *Fylde*, 46 L. J. M. C. 189; 36 L. T. 251; 41 J. P. 344).

Where a parish comes down to the bank of a river, that is *primâ facie* evidence that it extends to the middle of the river. A pier leading from the bank into the river beyond low-water mark, and consisting of a fixed platform supported on piles near the bank, and a floating barge moored close to, but not attached to the platform, is within the parish, and therefore rateable (*McCannon* v. *Sinclair*, 2 E. & E. 53; 28 L. J. M. C. 247; 5 Jur. (N. S.) 1302; 7 W. R. 567). And see *Ipswich Dock Commissioners* v. *St. Peter's, Ipswich* (30 J. P. 820), as to the question of evidence of the parish boundaries in a river.

Floating docks and pontoons.

A floating dock is not rateable *per se*, but it is a question of fact in each case whether it is so connected with the occupation of adjoining land, as to be properly taken into account as enhancing the rateable value of such land (*Reg.* v. *Morrison*, 1 E. & B. 150; 22 L. J. M. C. 14; 17 Jur. 485; *Reg.* v. *Leith*, 1 E. & B. 121; 21 L. J. M. C. 119; 16 Jur. 522).

The Tyne Pontoons Company are owners and occupiers of land on the Tyne where it is tidal. A creek was excavated on the land, and in it were placed two pontoons into which ships could be received for repairs. They were attached to piles and "dolphins" by means of shackles, which could be easily detached and joined to the land by a movable gangway. They could be towed out, but, except for repairs, had not been moved for ten years. The company were rated as being in occupation of the land over which the pontoons floated, and to which they were attached, and at the enhanced value due to their being so attached. *Held* that they were rightly rated (*Tyne Pontoons Co.* v. *Tynemouth*, 76 L. T. 782).

A railway company had, by special Acts, established a steam ferry across the Humber, and for landing purposes had constructed a pontoon, which was attached by chains to a pier the property of the corporation of Kingston-upon-Hull. The pontoon was attached so as to rise and fall with the tide, and at low water to rest on the foreshore. *Held* that the company were not occupiers of the foreshore and moorings so as to be rateable (*Manchester, Sheffield and Lincolnshire Railway* v. *Kingston-upon-Hull*, 75 L. T. 127; 60 J. P. 798).

GASWORKS.

Rateability.

The Birmingham Gas Light Company were by Act of Parliament authorized to break up the pavement of the streets for the purpose of laying down their pipes, &c.; they manufactured gas, coke and tar at their works in Birmingham, and conveyed the gas by pipes underground to the houses of the inhabitants who used and paid for it; being rated in a sum equal to their profits, the court held that they were wrongly rated: the case was different from that of a canal, for this was a rating of the profits of a manufactory; the correct amount for which the company were rateable was the sum for which the buildings, trunks and pipes would let to a person

POOR RATE—PROPERTY RATEABLE—*Gasworks—continued.*

Sect. 1.

Note.

willing to carry on the same business (*Rex* v. *Birmingham Gas Light and Coke Co.*, [1822] 1 B. & C. 506; 2 D. & R. 735; S. P. *Keighley Local Board* v. *Keighley*, 29 J. P. 71).

The Brighton Gas and Coke Company were rated in the parish of Brighton in respect of their mains and pipes for conveying gas, situate and fixed in the ground in that parish; the gas was manufactured in the works at Rottingdean, and conveyed thence by pipes underground to and through Brighton, where it was sold by the company: the court held that the company were to be deemed occupiers of the land in which their pipes were fixed, and therefore rightly rated as such according to the value of the land, improved by the pipes fixed in it (*Rex* v. *Brighton Gas and Coke Co.*, [1826] 5 B. & C. 466; 8 D. & R. 308; S. P. *Rex* v. *Shrewsbury Gas Co.*, [1832] 3 B. & Ald. 216).

Mode of assessment.

The Cambridge Gas Company were rated for their gasworks and the pipes laid down through the different streets of Cambridge for the purpose of conveying the gas, upon a sum of 2,400*l.*, being the sum at which the works would let to a tenant; they were rated upon 150*l.* for the works themselves in the parish in which they were situate, and upon the remaining sum of 2,250*l.* for the pipes, in the respective parishes in which they were laid down, in the ratio of the respective sums which they received for gas in these several parishes: the company insisted that the true mode of rating them would be, by deducting the amount of their expenditure from their receipts, and from the balance a further deduction should be made of 500*l.*, which it would require yearly to keep the pipes and works in proper repair, a sum of 600*l.* as profits upon their trade, and 350*l.* for the value of the pipes within the colleges, which were extra-parochial and never paid poor's rates; they also objected to the principle on which they were rated in the different parishes. The court held that taking the whole sum at what the works would let for to a tenant, was the proper foundation for the rate; that as the works were of a perishable nature, such a sum should be deducted as would be sufficient annually to keep them in repair; that nothing of course should be deducted for profits, for calculating the works at a rental supposed that the tenant would take the profits into his calculation; that as the company were rated for their pipes as occupiers of the land in which they were laid, they could not be rated for those laid within the colleges; and lastly, that the rates upon the whole works ought to have been parcelled out among the different parishes, not according to the sums the company received in each parish, but according to the quantity of pipes and apparatus laid down in each (*Reg.* v. *Cambridge Gas Co.*, 8 A. & E. 73; 3 N. & P. 262; 7 L. J. M. C. 50).

Pipes in different parishes.

A company manufactured gas outside of a parish, and laid their pipes to and through the parish in soil which was not their own. For purposes of rating, the gasholder was valued as a warehouse at what it was worth to let by the year. The land occupied by the mains and pipes was valued at its value as a pipe-way, and the mains and pipes at the amount for which they would let, with an allowance for wear and tear. *Held* that the valuation was bad for inequality, as other property in the parish was not valued in the same manner (*Rex* v. *Birmingham and Staffordshire Gas Co.*, 6 A. & E. 634; 1 N. & P. 691; 6 L. J. M. C. 92; S. P. *Rex* v. *Beverley Gas Works*, 6 A. & E. 645).

POOR RATE—PROPERTY RATEABLE—*Gasworks—continued.*

Sect. 1.

Note.

In rating gasworks the parochial principle is to be applied according to the decision in *Hampton* v. *Middlesex Waterworks Co.* (1 E. & E. 716; 28 L. J. M. C. 135; 5 Jur. (N. S.) 1159; 32 L. T. 388; 23 J. P. 164, *post*, p. 100); a proper allowance for expenses and for tenants' profits and interest on capital is to be made, and a proper value is to be put upon the stations, works and buildings, &c., and then the rateable value of the remaining property is obtained, as what is left after the allowances is the rent which a hypothetical tenant would give for the rent of the gas apparatus; and as regards the apportionment amongst the several parishes of the mains and pipes, part must be considered as directly, and part as only indirectly, contributing to the profits (*Sheffield United Gas Co.* v. *Sheffield*, 4 B. & S. 135; 9 Jur. (N. S.) 623; 8 L. T. (N. S.) 692; 37 J. P. 429; S. C. *Reg.* v. *Sheffield United Gas Light Co.*, 32 L. J. M. C. 169).

What apparatus must be included in valuation.

A gas company was rated in respect of the following: Meters soldered to the service-pipes on the premises of consumers, but not fixed in any way so as to interfere with their removal; retorts or instruments for the production of gas, distinct and severable from the foundation or basement floor of the company's premises, but attached to the floor by hardened fire-clay; "purifiers" or massive iron vessels standing on a brick base, but not fixed to it, though connected on one side with pipes passing through the soil from the retorts; steam-engines, fastened by screw bolts to a stone base fixed in the soil, and capable of being detached by unscrewing the bolts; boilers set in brickwork fixed in the soil; gas-holders, or vessels of plate iron for storing gas, not fixed in any way, but placed so as to rise and fall in circular tanks excavated beneath the soil, and easily moved for the purpose of repairs. According to the practice and course of business in letting gasworks, the tenant would have to take to and find capital for all the things above-mentioned. On appeal, the court held, that the retorts, purifiers, steam-engines, boilers, and the movable part of the gas-holders, appeared to be attached to the inheritance for the permanent improvement of it, and ought, therefore, to be included in the value of the premises for the purpose of rating; but that the meters must be excluded, as they could not be considered as part of the gas-works, and never were so attached to the houses as to lose the character of chattels (*Reg.* v. *Lee*, L. R. 1 Q. B. 241; 7 B. & S. 188; 35 L. J. M. C. 105; 13 L. T. (N. S.) 704; 12 Jur. (N. S.) 225).

Occupation of mains, or easement.

By a local Act the Birkdale Local Board had the exclusive right of laying down mains and pipes within the township, and were bound to keep all present and future mains, &c., in repair, and to afford the corporation of Southport (who were owners and occupiers of gasworks and were empowered by statute to supply gas in the township of Birkdale) the use of their mains for the supply of gas within the township, in consideration of a certain payment by the corporation for every thousand cubic feet of gas supplied to private consumers. The local board had laid the mains, and kept them in repair, and they were used for no other purpose than the supply of gas by the corporation, who laid and repaired the service-pipes to private consumers, and collected all the gas rents. It was held, that the corporation had only an easement or right to use the mains for the sole purpose of the supply of gas, and had no exclusive occupation of them so as to be liable to be

POOR RATE—PROPERTY RATEABLE—*Gasworks—continued.*

rated in respect of them (*Southport, Mayor, &c., of*, v. *Ormskirk*, [1894] 1 Q. B. 196; 63 L. J. Q. B. 250; 69 L. T. 852; 42 W. R. 153; 58 J. P. 212).

Sect. 1.

Note.

MANUFACTORIES, &C., AND MACHINERY.

The general principle upon this subject is, that in all cases where land is rateable, if the annual value of it be increased by any erection upon it, or addition to it, &c., the occupier is liable to be rated for it at its improved value, unless it be otherwise directed by some Act of Parliament. And therefore, where a manufactory is built upon land, the occupier becomes rateable for it at the sum at which both the land and the manufactory (including the machinery) would let for to a tenant.

What machinery is rateable.

The proprietors of gasworks appealed against a valuation for a poor rate under the private Act of Parliament on the ground that other manufactories in the parish were valued merely upon the rental of the buildings, exclusive of the steam-engines and machinery; the court held the valuation as to these manufactories to be clearly wrong; they ought to have been valued with their steam-engines and machinery (*Rex* v. *Birmingham and Staffordshire Gas Co.*, 6 A. & E. 634; 6 L. J. M. C. 92; 1 N. & P. 691).

A man rented a building containing a carding machine for the manufacturing of cotton, which was sometimes worked by water, sometimes by the hand, and not fixed to the floor, but removable at pleasure, for all which he paid the annual rent of 36*l.*, the building by itself being only of the annual value of two guineas. Being rated for this as upon the value of 36*l.* he appealed; but the court said, that although it was stated that this machine was not fixed to the floor, it must be fixed to some part of the building, otherwise it could not be worked by water; but independently of that, as the party rented both house and machine at one entire rent, he was properly rated for them (*Rex* v. *Hogg*, 1 T. R. 721).

Certain parties were rated to the poor for certain premises used by them for manufacturing iron from ironstone, and for the machinery thereon, which, although fixed to the freehold, was in fact personal property, and personal property generally was not rated in the parish. The court held that they were properly rated for it; for all real property should be rated according to its actual value, as combined with the machinery attached to it, without considering whether that machinery be real or personal property, whether it would go to the heir or executor, or whether, on the expiration of a lease, it would go to the landlord or lessee (*Reg.* v. *Guest*, 7 A. & E. 951; 7 L. J. M. C. 38; 2 N. & P. 663).

The corporation of Gloucester erected a machine, consisting of a steelyard, &c., for the purpose of weighing coal-waggons, &c., and received at the rate of 2*d.* per ton upon the goods weighed; the house in which it was erected was of the annual value of 5*l.* only; and the corporation being rated for the "machine-house" upon a value of 24*l.* appealed; the court held that, taking it for granted that the machine was fixed to the freehold, the house was properly rated at its improved value arising from the machine being erected in it; if a house be let for 30*l.*, and upon being turned into a shop would let for 50*l.*, it should be rated at 50*l.* (*Rex* v. *St. Nicholas, Gloucester*, Cald. 262; 1 T. R. 723 n.).

POOR RATE—PROPERTY RATEABLE—*Manufactories, &c., and Machinery—continued.*

Sect. 1.

Note.

It was at one time held that the machinery and fixtures which could be taken into calculation as enhancing the value of the "hereditament" must be physically attached to the freehold (*Chidley* v. *West Ham*, 32 L. T. (N. S.) 486; 31 J. P. 310; and see *Reg.* v. *Halstead*, 32 J. P. 118): but this principle has been disapproved of, and it has now been held that in estimating the rateable value of premises used as a manufactory, machinery and plant placed therein for the purpose of making, and which do make the premises fit as premises for the particular purpose for which they are used, are to be taken into account as enhancing the rateable value of the premises, although such machinery and plant remain personal property, and are not physically attached to the premises (*Tyne Boiler Works* v. *Longbenton*, 18 Q. B. D. 81; 56 L. J. M. C. 8; 55 L. T. 825; 35 W. R. 110; 51 J. P. 420).

"The premises to be rated are to be taken as they are with all their fittings and appliances by which the owner has adapted them to a particular use, and which would pass as part of the premises by a demise of them to a tenant" (*Reg.* v. *Lee*, L. R. 1 Q. B. 241; 35 L. J. M. C. 105).

In the case of shipbuilding premises, Cockburn, C.J., after reviewing many cases on the subject, said: "Applying the rule established by these decisions to the present case, it appears to us, after having carefully considered the character of the machinery in question, that the whole of it, though some of it may be capable of being removed without injury to itself, or to the freehold, is essentially necessary to the shipbuilding business to which the premises are devoted, and must be taken to be intended to remain permanently attached to them so long as those premises are applied to their present purpose;" and it was therefore properly taken into account in increasing the rateable value of the premises (*Laing* v. *Bishopwearmouth*, 3 Q. B. D. 299; 47 L. J. M. C. 41; 37 L. T. 781; 26 W. R. 351; 42 J. P. 309).

The principle of the decisions in the above cases was applied to the case of a lace manufactory, where all the machinery which was essentially necessary and permanently attached to the manufacturer's business was held to be rightly taken into account in estimating the rateable value of the premises (*Gifford* v. *Chard Union*, 63 L. T. 249).

Distinction has been made between main shafting and lighter machinery in a manufactory, the former being held properly included, and the latter properly omitted, in calculating the rateable value of the premises (*Reg.* v. *Halstead*, 32 J. P. 118); but in view of the later cases above cited such distinction would apparently not now be made.

Storage chambers, cylinders and coolers have been held properly included in calculating the rateable value of manufactories (*Reg.* v. *Haslam*, 17 Q. B. 220; 15 Jur. 972; 15 J. P. 642; *Reg.* v. *Brinjes*, 35 J. P. 456).

Stopped mills rateable as warehouses of machinery.

The owners of a cotton mill, in consequence of the depression of trade, ceased to work it, but retained in their employ a person whose duty it was to look after the machinery, and keep it in a proper state of repair. *Held* that the mill, although not as such liable to the poor rate, was nevertheless rateable as a warehouse for

POOR RATE—PROPERTY RATEABLE—*Manufactories, &c., and Machinery—continued.*

Sect. 1.

Note.

the storing of the machinery (*Staley* v. *Castleton*, 5 B. & S. 505; 33 L. J. M. C. 178; 10 Jur. (N. S.) 1147).

The owner of a silk mill having given up working it himself, but retaining possession of it *in statu quo*, intending to let it with the machinery as a silk mill, is rateable in respect of his occupation of the mill as a warehouse for his machinery and plant (*Harter* v. *Salford*, 6 B. & S. 591; 34 L. J. M. C. 206; 29 J. P. 647; 11 Jur. (N. S.) 1036).

Stoppage from strikes.

The stoppage of a mill by reason of a particular strike need not be taken into account in assessing the rateable value of the mill, although the general liability of mills to be affected by strikes should be considered. Two days before making the assessment of certain cotton mills a strike occurred, which caused the stoppage of the mills. During the strike the mills were occupied by the mill-owner's servants for the purpose of keeping the machinery in order. The millowner objected to the valuation list, but before the objections were heard by the committee, who refused to amend the list, the strike was over. It was held that the committee were right in not taking into consideration the particular strike, and it did not appear that they had disregarded the general contingency of strikes; and also that the assessment having properly been made, could not be subsequently reduced by treating the mills as warehouses for storing machinery only during the stoppage of work (*Hoyle and Jackson* v. *Oldham*, [1894] 2 Q. B. 372; 63 L. J. M. C. 178; 70 L. T. 741; 58 J. P. 669; 10 T. L. R. 315).

MINES, QUARRIES, &C.

By the statute of Elizabeth coal mines were made rateable to the poor, and as coal mines were specially mentioned in the statute, it was held that mines of any other description were not rateable (see *Crawshay* v. *Morgan*, L. R. 5 H. L. 304; 40 L. J. M. C. 202; 24 L. T. (N. S.) 889; 20 W. R. 554; 35 J. P. 596). Now, by the Rating Act, 1874 (37 & 38 Vict. c. 54), s. 3, *post*, mines of every kind not mentioned in the statute of Elizabeth are made rateable as though they were mentioned therein; and the same Act laid down special rules for the rating of tin, lead, and copper mines. Coal mines, however, remain rateable on the same principle as before the Act, and as the special rules only apply to tin, lead, and copper mines, mines of any other description than these are now rateable on the same principle as coal mines.

Before the Rating Act, 1874, much controversy took place on the question whether the place from which mineral was extracted was a mine, or a pit, or quarry, inasmuch as if it was a mine it was not rateable, but if it was a pit or quarry it was rateable (*Rex* v. *Alderbury*, 1 East, 534). As quarries and mines are now equally rateable (subject to the special rules affecting the assessment of tin, lead and copper mines), it is sufficient to give a reference only to some of the cases in which the question has been raised (see *Rex* v. *Sedgeley*, 2 B. & Ad. 65; *Rex* v. *Bretell*, 3 B. & Ad. 424; *Rex* v. *Dunsford*, 2 A. & E. 568; *Rex* v. *Woodland*, 2 East, 164; *Rex* v. *Brown*, 8 East, 528).

Mine in several parishes.

A mine lying in several parishes is rateable in each of those parishes, although the adit and the machinery are in one parish

POOR RATE—PROPERTY RATEABLE—*Mines, Quarries, &c.—continued.*

Sect. 1.

Note.

Mode of assessment.

only (*Rex* v. *Foleshill*, 2 A. & E. 593; 4 N. & M. 360; 4 L. J. M. C. 63; *Rex* v. *Pitt*, 5 B. & Ad. 565).

The correct mode of assessing coal mines is to rate the occupier at such a sum as the mine would let for to a tenant. And, therefore, where the proprietor or occupier of a coal mine had expended 10,000*l*. in planting and setting it to work, and after deducting the current annual expenses, realized a profit of 428*l*. 9*s*., for which he was rated; and the lessees of other coal mines in the parish were rated at the full sums paid by them as royalties for their mines during the preceding year; the court held that in all these cases the occupier should be rated, not for the gross profit of the mine, but at the sum the mine would let for to a tenant (*Rex* v. *Attwood*, 6 B. & C. 277; approved in *Coltness Iron Co.* v. *Black*, 6 App. Cas. p. 331; 51 L. J. Q. B. 626; 45 L. T. 145; 29 W. R. 717; 46 J. P. 20).

To estimate the value for the purposes of the poor's rate of a coal mine in a district where none are let from year to year, and there is therefore no means of ascertaining what a yearly tenant would give for it, the receipts of the mine for the year may be considered. When the gross value of the mine is entered at the same figure as the rateable value, the occupiers of the mine are entitled to accept the gross value as being the true gross, and to make deductions therefrom to arrive at the rateable value (*Denaby and Cadeby Colliery Companies* v. *Doncaster Union*, (1898) 62 J. P. 343).

K. occupied cement works, and also a chalk pit near thereto, and was separately rated for each. Owing to the pit being so near to the cement works he made very large profits, while occupiers of other chalk pits, who had no cement works, used the chalk only for ballast and other less profitable purposes: it was held that though the convenience of the position of the chalk was to be considered, yet K. was not to be rated higher for his chalk pit merely because he made a larger profit out of it, and he was not bound to disclose his profits to enable the guardians to increase his assessment (*Reg.* v. *Aylesford Union*, 26 L. T. (N. S.) 618; S. C. *Reg.* v. *North Aylesford Union*, 37 J. P. 148; discussed in *Clark* v. *Fisherton Angar*, or *Clark* v. *Alderbury*, 6 Q. B. D. 139; 50 L. J. M. C. 33; 29 W. R. 334; 45 J. P. 358).

A man rented a brickfield of ten acres, at 2*l*. per acre (without reference to the use made of the land), and was also liable to pay to his landlord a royalty or realty of 1*s*. 6*d*. per thousand bricks moulded on the land; the party was rated for this land at 192*l*., which was calculated on the amount of the rent and royalty, making all proper deductions, and which the sessions confirmed, but (in a case granted) found also that the rent per acre which a tenant might be expected to give for the field, with liberty to take the brick-earth, but without any royalty, would be 10*l*., making for the ten acres 100*l*. The court held the latter sum to be the proper rateable value, and that this probable rent was the true criterion of it (*Reg.* v. *Westbrook*; *Reg.* v. *Everist*, 10 Q. B. 178; 16 L. J. M. C. 87; 11 Jur. 515).

Plant and machinery to be taken into account.

The lessee of a coal mine, at a certain rent, erected steam-engines and made railroads, &c., for the purpose of working the mine to advantage; and being rated at a sum exceeding the rent he paid, he appealed; but it appearing that the mine in its

POOR RATE—PROPERTY RATEABLE—*Mines, Quarries, &c.—continued.*

Sect. 1.

Note.

improved state would let to a tenant for the full sum at which the appellant was rated, the court held that the rate was rightly laid at the other sum; the defendant had raised the annual value of the mine by his improvements, and whether this be done by the owner or the tenant, the occupier is in all cases properly rateable upon the improved value (*Rex* v. *Granville, Lord*, 9 B. & C. 188).

Coal mine worked at a loss.

If a tenant is willing to give a rent for a colliery and continues to work it, he is rateable, although he may work it at a loss. The parties who worked a colliery were rated for it, and appealed against the rate on the ground that their occupancy was not beneficial; and it appeared that they were lessees of this colliery, which they were bound to work, but for the last three years they had been working the mine at a loss; they knew it would be a losing concern when they took it, but their inducement to do so was, that a mine of their own adjoined it, and the only, or at least the cheapest way to get to work it, was by working through this colliery to it: the court held them to be rateable (*Rex* v. *Parrott*, 5 T. R. 593).

Exhausted or unworked coal mines.

Occupiers are not liable to be rated for a colliery before they have begun to work it and have made it productive (*Rex* v. *Bishop of Rochester*, 12 East, p. 358, *per* Lord Ellenborough, C.J.). Occupiers are not liable to be rated after the mines have ceased to be productive, and they have accordingly ceased to work them. A lessee of coal mines, for which he was bound to pay a rent of 200*l.* a year, whether he worked them or not, was rated for them to the poor, and appealed against the rate on the ground that about three years ago the coal in the mines being totally exhausted and worked out, he had ceased to work them, and had not worked them since, nor had he been since rated for them, until the making of the present rate: the court held that he was not rateable for them; he was rateable for them only according to their annual value at the time the rate was made, and when they became no longer of value the subject-matter of the rating was gone (*Rex* v. *Bedworth*, 8 East, 387).

A colliery, the pumping engines only of which were at work, and which appeared to be a hopeless loss, was assessed to the poor rate, at a rate calculated on the land, machinery, sheds, railway, &c., as a going concern having a prospective value: the court held that the occupiers were rateable only for the surface lands they occupied, and were not rateable for the buildings, boilers, engine, plant and railway, as they were only part of a worthless colliery, and were not shown to have any value apart from such colliery (*Tyne Coal Co., Ltd.* v. *Wallsend*, 46 L. J. M. C. 185; 35 L. T. (N. S.) 854; 41 J. P. 375).

Surface may be rateable though mine not.

In a going concern the occupiers are rateable in respect both of the surface land and of the sheds and other buildings erected on it for the purpose of carrying on the mining operations (*Kittow* v. *Liskeard*, L. R. 10 Q. B. 7; 44 L. J. M. C. 23; 31 L. T. (N. S.) 601; 23 W. R. 72).

Before the Rating Act, 1874, even if the mine were not rateable, the occupiers were liable to be rated for the surface land, machinery, sheds, &c. Thus, the appellant was the owner of iron mines, and he rented two acres and a half of surface land partly over and partly adjoining the mines; he occupied the mines and land

POOR RATE—PROPERTY RATEABLE—*Mines, Quarries, &c.—continued.*

Sect. 1.

Note.

together, using the surface for the purpose of working the mines and getting the ore, and he had erected thereon buildings, machinery, workshops and tramways. The surface land, buildings, &c., without the mines, would be practically valueless. *Held* that appellant was rateable to the poor rate in respect of the surface land with the buildings, machinery, workshops and tramways, although they were occupied in connection with a non-rateable subject-matter, viz., an iron mine. That the way to ascertain the rateable value was to assume the mines and surface to be in different hands, and then to calculate what rent the occupier of the mine would have to pay for the surface with the buildings, &c., erected thereon (*Guest* v. *East Dean*, L. R. 7 Q. B. 334; 41 L. J. M. C. 129; 26 L. T. (N. S.) 422; 36 J. P. 342).

The occupiers of a lead mine having diverted a water-course for the working of their machinery, they were held rateable in respect of the occupation of the water-course at the value of the land enhanced by its capability of conveying water, although the lead mine was not rateable (*Talargoch Lead Mining Co.* v. *St. Asaph Union*, L. R. 3 Q. B. 478; 9 B. & S. 210; 37 L. J. M. C. 149; 18 L. T. 711; 16 W. R. 860).

Royalties.

Where a mine is let to a tenant at a rent or royalty in the nature of a money-rent, the landlord cannot be rated to the poor in respect of the rent he receives for it (*Rex* v. *Wellbank*, 4 M. & S. 222; *Rex* v. *Bishop of Rochester*, 12 East, 333; *Rex* v. *Tremayne*, 4 B. & Ad. 162), even though it be not money-rent, but be rendered in certain quantities of metal smelted from the ore of the mine (*Rex* v. *Earl of Pomfret*, 5 M. & S. 139).

The lessee of tin mines let them to a tenant, the latter yielding and paying to him, within six weeks after the return or sale of every parcel of tin or tin ore, the sum of 1*s.* in the pound on the gross value, clear of all rates, &c.: the court held that as this was in the nature of a money-rent he was not rateable for it (*Reg.* v. *Crease*, 11 A. & E. 677).

Payment in raw ore.

If by agreement between landlord and tenant the latter is to give the former a certain portion of the ore to be raised from the mine, unsmelted, this is not a rent, but a portion of the land itself, and the landlord is rateable for it (*Reg.* v. *Crease*, 11 A. & E. 677), whether he reside in the parish or not (*Crease* v. *Sawle*, 2 Q. B. 862; 11 L. J. M. C. 62).

A person being seised in fee of lands containing a mine of tin and copper, let them to a tenant, with liberty to work the mine, he yielding and delivering one-eighth share or dish of the ore tin and copper, or paying the value of it, at the option of the landlord; and in pursuance of this, the landlord received one-eighth of the sums which the whole of the tin sold for; and for this he was rated in the parish of St. Austell, in which he did not reside: the court held that he was rightly rated; for being entitled to a portion of the ore, he was so far an occupier of the land, and as such he was rateable (*Rex* v. *St. Austell*, 5 B. & Ald. 693). The same had been before decided with respect to tin mines (*Rex* v. *St. Agnes*, 3 T. R. 480), and lead mines (*Rowls* v. *Gells*, Cowp. 451).

A person seised in fee of the manor of Rowberrow, and entitled to all mines within the same, and also entitled to a lot, toll, or free

POOR RATE—PROPERTY RATEABLE—*Mines, Quarries, &c.—continued.*

Sect. 1.

Note.

share of all calamine stone, or *lapis calaminaris*, raised within the manor, in the proportion of one part in four, let this lot, toll, or free share to the defendants for ten years, at a rent of 210*l*. The defendants ran no risk, and incurred no expense whatever: being rated in respect of this lot, toll, or free share, the defendants appealed; but the court held that they were rateable for it; it was a demise to them of part of the produce of the land, or rather of the land itself, free from risk and uncertainty; it was not a demise of the stone after it was raised, but whilst it was part of the solid mass of the land; and as land it was of course rateable (*Rex* v. *Baptist Mill Co.*, 1 M. & S. 612).

Ore, by agreement, was to be cleansed, dressed, washed, and made merchantable and fit for the smelting mill, before it was delivered to the landlord; the court held that the latter was rateable for it (*Reg.* v. *Todd*, 12 A. & E. 816; 4 P. & D. 335; 10 L. J. M. C. 14; 5 Jur. 407).

Licensee.

A licensee with power under his licence to mine, &c., is liable to be rated as an occupier if he uses his licence (*Kittow* v. *Liskeard Union*, L. R. 10 Q. B. 7; 44 L. J. M. C. 23; 31 L. T. 601; 23 W. R. 72); but the owner of a mere unused licence to work mines or pits is not an occupier of them liable to be rated, but he is liable to be rated for the mines or pits in a parish in which he actually works them (*Reg.* v. *Fayle*, 27 L. T. 64; 20 J. P. 263).

A galee of mines in the Forest of Dean is an occupier liable to be rated, as by 24 & 25 Vict. c. 40, s. 1, a gale of those mines is to be deemed to confer "an interest in the nature of real estate" on the grantee (*Crawshay* v. *Morgan*, L. R. 5 H. L. 304; 40 L. J. M. C. 202; 24 L. T. (N. S.) 889; 20 W. R. 554; 35 J. P. 596).

Land occupied under an agreement by a person with the right to search for and dig coprolites, was held to be in the exclusive occupation of such person, who was accordingly rateable in respect of his occupation (*Roads* v. *Trumpington*, L. R. 6 Q. B. 56; 40 L. J. M. C. 35; 23 L. T. (N. S.) 821).

Land which is in a shifting occupation being worked for coprolites should be rated in respect of the land actually worked during the year at its enhanced or coprolite value (*Reg.* v. *Whaddon*, L. R. 10 Q. B. 230; 44 L. J. M. C. 73; 32 L. T. (N. S.) 633; 39 J. P. 404).

For cases with regard to the special rating of tin, lead and copper mines, see notes to the Rating Act, 1874 (37 & 38 Vict. c. 54), *post*.

RAILWAYS.

GENERAL PRINCIPLE.

A railway company enabled by Act of Parliament to make a railway, and to charge tolls to persons choosing to run carriages, &c., upon it, and also to run carriages themselves upon it, charging certain fares, carriage rates, &c., are liable to be rated for their land, thus made additionally valuable by the railway, not merely at the sum a person would give as a rent for the tolls, but what he would give as a rent for the way to be used by him in the same way as the company used it, namely, by running carriages on it on his own

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

account, deducting of course tenants' rates, &c., the expenses of repairs, and other charges mentioned in 6 & 7 Will. 4, c. 96, s. 1; and they are rateable in each parish, in proportion to the amount of profit derived on that part of the railway within it, and not merely in the ratio of the length of the way within the parish to the whole length of the railway, and this, although the additional value of that part of the line may arise in some manner from the station-houses and other works not within the parish (*Reg.* v. *London and South Western Rail. Co.*, 1 Q. B. 558; 11 L. J. M. C. 93; 2 Nev. & Mac. Rail. Cas. 629; 6 Jur. 686).

A railway should be assessed according to its value as used for a railway, and not according to the value of the surrounding land (*R.* v. *Manchester South Junction and Altrincham Rail. Co.*, 15 Q. B. 395 n.).

A railway not constructed under parliamentary powers, but afterwards enlarged and used under such powers, is rateable at its full net annual value (*North Eastern Rail. Co.* v. *Leadgate Local Board*, L. R. 5 Q. B. 157; 39 L. J. M. C. 65; 22 L. T. (N. S.) 62; 18 W. R. 691).

GROSS REVENUE BASIS OF VALUATION SUBJECT TO DEDUCTIONS.

In valuing railways for the purpose of assessment, which in practice are not usually let, the receipts from traffic as well as tolls are taken as the basis of the valuation, from which receipts the working expenses are deducted, and allowances are made for interest on tenants' capital and tenants' profits. The balances remaining after the deductions and allowances are made, represent the rateable value of the railways as a whole. The Grand Junction Railway Company being rated to the poor in the parish of Seaford, in the county of Stafford, it appeared that the company employed locomotive engines, carriages, &c., and made profits by carrying passengers and goods; other persons also used the railway with their own locomotive engines, carriages, &c., making profits by carrying passengers and goods, paying to the company certain tolls for the same; and others hired locomotive engines of the company, but used their own carriages, &c., and had their own stations and waiting-places, &c., paying the company certain tolls; over the lines from Newton to Liverpool, and from Newton to Manchester, the company were merely carriers, the line not belonging to them, but merely going along it, upon paying toll, as any other carriers; the gross profits derived by the company from tolls alone, as owners of the soil, and taking into account tolls supposed to be received by them for carriages run by themselves, was on an average 1,500*l.* per mile a year; but if their profits as carriers on their own line were taken into account, the average would be 4,190*l.* a mile; the company insisted that they should be rated for the tolls alone, less 20 per cent. for tenants' profits, $2\frac{1}{2}$ per cent. for collection of the tolls, 350*l.* per mile for maintenance of the railway, wages of gatekeepers, engineers, police, &c., 70*l.* per mile for poor rates, tithes, &c., and 30*l.* per mile for reproducing rails, chairs, and sleepers when rendered necessary by accident or decay, making a net value of 712*l.* 10*s.* per mile, but, on the other hand, the parish insisted that the company should be rated on the profits derived by them from the railway, whether from tolls or otherwise, amounting to the sum of 440,366*l.* on 105 miles, less 5*l.* per cent. on 255,000*l.*, the value of

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

their engines, carriages, &c., 20*l.* per cent. on the same as tenants' profits, 12*l.* 10*s.* per cent. for depreciation of the same beyond repairs and expenses, 198,962*l.* the amount of the year's expenses, 9,150*l.* repairing stations, &c., and 30*l.* per mile for reproducing rails, sleepers, &c., leaving a net profit on the company's whole line of 135,589*l.*, or 1,050*l.* per mile. The court held that the company were rateable on the higher scale, not simply for the tolls, but for the value of the railway to them, arising from the way they used it: that although profits of trade cannot, as such, be brought into the rate, yet if the ability of carrying on a gainful trade upon the land adds to the value of the land, that ability must be taken into consideration; and that in calculating the rent a tenant from year to year would give for the way, with a view to using it in the same way as the company, there must be considered not that alone to which the lease would convey a legal title, but that which it would give the lessee the means of doing or enjoying, and which would perhaps induce him to give a higher rent for it (*Reg.* v. *Grand Junction Rail. Co.*, 4 Q. B. 18; 13 L. J. M. C. 94; 8 Jur. 508).

DEDUCTIONS.

The deductions allowed from the gross revenue in making a valuation of the rateable value of a railway appear from the following cases:—

The Great Western Railway Company were rated in the parish of Tilehurst, for that part of their railway which passed through the parish; and it appeared that the company had one railway which they had constructed, and were the occupiers of two branch railways which they had rented, but the main line alone passed through the parish; on these three lines they were entitled to toll; they also furnished carriages, provided the locomotive power, and carried on the business of carriers, but they ansustained annual loss upon the branch lines, which they carried on for the increased traffic they brought to the main line; they were rated for it in this way,—the gross receipts of the three railways (175 miles) were calculated at 644,000*l.*, or 3,680*l.* a mile; out of which was deducted 49,643*l.* 6*s.* 5*d.* for maintenance of the way; 74,725*l.* 9*s.* for engines, repairs, wages, coke, &c.; 60,714*l.* 15*s.* 2*d.* for repair of carriages, stores, wages to guards, conductors, police, &c.; 23,126*l.* 2*s.* 11*d.* for superintendents, clerks, printing, stationery, &c.; 1,682*l.* 6*s.* 8*d.* for repair of stations, &c.; 1,536*l.* 10*s.* for damage by fire, accidents, &c.; 25,783*l.* 4*s.* 6*d.* for government duty; 11,340*l.* 14*s.* 8*d.* for taxes and rates; 8,643*l.* 5*s.* 7*d.* for direction and office expenses; and 20,000*l.* were allowed for the annual depreciation of the plant or movable stock necessary for working the whole line, amounting altogether to the sum of 277,205*l.* 14*s.* 11*d.*, which being divided by 175 (the number of miles of railway), gave 1,584*l.* for expenses per mile; the parish also allowed the railway company 5 per cent. as interest on their plant or movable stock (calculated at 580,000*l.*) and 10 per cent. as tenants' profits, which 15 per cent. amounted to 87,900*l.*, and that being divided by 175, gave 497*l.*; these two sums, therefore, 1,584*l.* and 497*l.*, being deducted from the gross receipts per mile, 3,680*l.*, gave a rateable value of 1,599*l.* per mile. The company, however, claimed a deduction for the stations and other erections on the line for which they were rated separately, and no part of which was within the parish; and the court held that they were

General expenses of repair, service, &c.

Tenants' profits.

Stations, &c.

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

Income tax.

entitled to this deduction. The company also claimed a deduction of the income tax paid by them amounting to 10,000*l.*; and the court held that they were entitled to so much of it as was a charge on the occupation, and payable by the tenant. The company also claimed an allowance for the wear and tear of rails and sleepers; but, as it appeared that they paid this out of their capital and not out of their profits, the court held they were not entitled to it.

Interest on cost of forming company.

They claimed also to be allowed 5*l.* per cent. interest on the sum expended in forming the company, and obtaining their Act; additional parochial assessments, not paid, but which would be payable in consequence of the decisions of the court as to the rating of railways; and the annual total loss on the two branch lines; but the court held that they were not entitled to any deduction on these grounds. It appeared that the allowance for tenants' profits had been made on the original value of the movable stock, which the sessions found had been decreased in value; and the court held that the allowance ought to have been made on the decreased value (*Reg.* v. *Great Western Rail. Co.*, 6 Q. B. 179; 15 L. J. M. C. 80; 10 Jur. 134).

Interest on working plant.

In assessing the London, Brighton and South Coast Railway Company interest was allowed on the working plant, calculated at the value of 260,000*l.*, which was its value in June, 1847, when the last account was rendered by the directors to the proprietors; but between that time and November, when the rate was made, it had increased in value to 350,000*l.*, at which sum the company insisted that the interest ought to be allowed. The court held that the allowance ought to be made upon this greater sum, for the company should be rated according to the value of their rateable property at the time of the making of the rate.

Depreciation in permanent way.

Besides an allowance made for the annual costs of keeping the way in a working condition, the company claimed to be entitled to an allowance for the depreciation which takes place in the permanent way, to which the respondents objected, because it did not appear that any part of the revenue of the company had been set apart for that purpose; and it was holden in *Reg.* v. *Great Western Railway Co.* (*supra*), that such a deduction ought not to be allowed; but the court, notwithstanding the case cited, held that the company were entitled to the deduction; in the case of house property a sum is allowed annually in the rate for repairs, although the repairs may not be done annually.

Rents received from other companies.

There was a portion of the line in Croydon (two miles and sixty-four chains) over which the company had given the South Eastern Railway the privilege of passing, in consideration of the latter company allowing them to pass over an equal portion of their rail which was out of the parish, and the respondents claimed to rate the company in this respect on a sum equal to what it was supposed the South Eastern Railway ought to pay for this privilege of passing over their line; but to this the company objected, as the equivalent was not received by them in the parish of Croydon. But the court held that they were rightly rated in this respect; it was a rent in kind which the company received for the use of their railway (*Reg.* v. *London, Brighton and South Coast Rail. Co.*, 15 Q. B. 313; 20 L. J. M. C. 125; 15 Jur. 372).

Repair and reproduction of permanent way and rolling stock.

A deduction should be made not only for the annual repair of rails and framework and movable stock, but also for their ultimate renewal and reproduction (*Reg.* v. *Great Western Rail. Co.*, 15 Q. B.

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

1085; 21 L. J. M. C. 84; 18 L. T. 285; 16 Jur. 217). And in making an allowance for depreciation of rolling stock it is correct to allow an annual sum for repairs upon a calculation of the number of years such stock would last (*Great Eastern Rail. Co.* v. *Haughley*, L. R. 1 Q. B. 666; 35 L. J. M. C. 229; 7 B. & S. 624; 14 L. T. (N. S.) 548; 12 Jur. (N. S.) 596; 14 W. R. 779).

Interest on capital.

In assessing a railway company in respect of the portion of their line passing through a parish, and in respect of station, buildings and sidings, an allowance must be made for interest on capital and tenants' profits, calculated with reference to the actual value of the rolling stock at the time the rate is made. A deduction should be allowed in respect of such machinery and furniture as are movable, such as office and station furniture; none should be allowed in respect of such things as were so attached to the freehold as to become part of it; and in respect of such things as, though capable of being removed, were yet so far attached as that they were intended to remain permanently connected with the railway or the premises connected with it, and to remain permanent appendages to it, as essential to its working, no deduction should be allowed.

Movable furniture.

Floating capital.

With regard to a large amount of floating capital which it may be necessary to keep in hand for emergencies, it would seem that no deduction can be made in respect of such capital *per se*, but in determining the rateable value of the railway one question to be considered is, whether on the whole capital employed a greater delay would occur in realizing the returns than is ordinarily incidental to the employment of capital (*Reg.* or *Rushton Spencer* v. *North Staffordshire Rail. Co.*, 3 E. & E. 392; 30 L. J. M. C. 68; 3 L. T. (N. S.) 554; 4 Jur. (N. S.) 363; 24 J. P. 821). A deduction in respect of interest on floating capital amounting to 125,000*l.* was allowed in *Manchester, Sheffield and Lincolnshire, and Trent, Ancholme and Grimsby Rail. Cos.* v. *Caistor* (2 Nev. & Mac. Rail. Cas. 53).

Trade profits on repairs.

A railway company made and repaired their own rolling stock and claimed to deduct trade profits on such repairs. *Held* that they were not entitled to deduct any sum for profits in respect thereof. They also used waggon stock belonging to private owners and other railway companies in conducting a portion of their traffic. They carried to the account of gross receipts the amount earned by means of such waggons, but the value of such waggons did not appear in the tenants' capital account of rolling stock, and, therefore, no profits thereon were allowed as a deduction on that head. The company claimed, however, under a separate head, a deduction of 10 per cent. upon the value of these waggons, upon the ground that it represented the trade done in them by the company, upon which the profits should be deducted. *Held* that the profits should be deducted, but as it appeared that the number of train miles run by owners' waggons was much less than the number run by those of other companies, 5 per cent. would be allowed on the former and 10 per cent. upon the latter. In this case the following percentages were allowed to be deducted: 17 per cent. upon tenants' capital for profit, interest, insurance, and deterioration; 10 per cent. upon the capital invested in stores; and 5 per cent. upon floating capital (which was fixed at 300,000*l.*); 50*l.* per lineal mile was allowed to be deducted for the landlord's expenses for maintaining the premises in a state to command the same rent (*London and North Western Rail. Co.* v. *Wigan*, 2 Nev. & Mac. Rail. Cas. 240).

Stores.

POOR RATE.—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

Stations, sidings, &c.

A deduction should be allowed in respect of stations, buildings and sidings along the line of railway, such deduction being calculated on the actual value at which they ought to be assessed, and not on the original cost of construction (*Reg.* or *Rushton Spencer* v. *North Staffordshire Rail. Co., supra*).

The deduction for stations and works separately assessed should have reference to the aggregate value of all the stations, &c., and should be in the proportion which the gross receipts due to the parish rated bear to the total traffic receipts of the line (*Manchester, Sheffield and Lincolnshire Rail. Co.* v. *Caistor*, 2 Nev. & Mac. Rail. Cas. 53).

Deductions must be made on parochial principle.

The proper mode of making the deduction from the gross annual value of a railway is, not by following the mileage principle, but by taking the actual outlay in the particular parish; and this item is not to be varied by what may be the state of things in other parishes along the same railway (*London and North Western Rail. Co.* v. *King's Norton*, 34 J. P. 102; S. P. *Reg.* v. *Great Western Rail. Co.*, 15 Q. B. 1085; 21 L. J. M. C. 84; 18 L. T. 285; 16 Jur. 217).

The S. railway passed through several parishes, in some of which were coal mines, which caused a larger expenditure in maintaining the permanent way; in other parishes through which it passed there were no coal mines. The parish of H. had no coal mines in it. *Held* that in arriving at the assessable value of the railway in H., the proper deduction for expense of permanent way was the expense in H., regardless of the average cost along the whole line of railway (*London and North Western Rail. Co.* v. *Harborne*, 34 J. P. 644).

PAROCHIAL PRINCIPLE OF RATING RAILWAYS.

A railway must be rated in any particular parish according to its actual value there, although such value is owing in a great measure to station-houses and other works not within the parish; and the rate in any parish is to be estimated by the amount of profits actually earned in that parish, and not by the proportion which the length of railway in that parish bears to its entire length (*Reg.* v. *London and South Western Rail. Co.*, 1 Q. B. 558; 11 L. J. M. C. 93; 2 Nev. & Mac. Rail. Cas. 692; 6 Jur. 686).

Trunk line and branches.

The South Eastern Railway consisted of a trunk line and several branches, one of which branches passed through the parish of Westbere for the distance of 202 chains, and was there rated, against which rate the company appealed. Upon a case stated, it appeared that the respondents rated the company for the part of their branch railroad passing through the parish on the mileage principle; that is, they first ascertained the rateable value of the whole of the railway, trunk line and branches, considered as one joint concern, and then rated that part which passed through the parish at a sum proportioned to the whole value, in the ratio of the length of railway in the parish to the length of the whole trunk line and branches; to this the company objected, because, although the expenses on the trunk line and branches were the same, mile for mile, the earnings were very different, the trunk line yielding much more than the branches, for the same distance; and the court held that they were wrongly rated; they should have been rated on the parochial principle, and that part of the branch line

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

passing through Westbere should be rated according to its value irrespectively of other parts of the trunk or branches lying in other parishes (*Reg.* v. *South Eastern Rail. Co.*, 15 Q. B. 313; 20 L. J. M. C. 125; 15 Jur. 372; S. P. *Reg.* v. *London, Brighton and South Coast Rail. Co.*, *ib.*; *Reg.* v. *Midland Rail. Co.*, *ib.*).

The London, Brighton and South Coast Railway Company were rated for that part of their railway which is in the parish of Croydon, calculated upon the earnings of the way in that parish; but the company insisted that the proper mode of rating would have been to ascertain the rateable value of the whole line, including trunk line and two branches, and then to rate the company at a portion of that sum in the ratio of the length of way in the parish to the whole length of the line. The court, however, held that the rate was correct in this respect; rating on the mileage principle, as contended for by the appellants, however convenient it may be, is not the legal mode as required by the Parochial Assessment Act (6 & 7 Will. 4, c. 96); in conformity with that statute, the property in each parish must be rated according to its value, irrespectively of the property in any other parish (*Reg.* v. *London, Brighton and South Coast Rail. Co.*, *supra*).

The Great Western Railway Company were rated for a branch line, called the Berks and Hants Railway, which had originally belonged to another company, but was purchased by the Great Western, who connected it with their trunk line, and by Act of Parliament it was made a part of their railway; a certain number of engines and carriages, and a separate staff of officers and servants, were appropriated to that branch exclusively; but no separate account of receipts and expenditure were kept for it, as distinguished from the rest of the railway. For a portion of this branch (two and a-half miles) passing through the parish of Tilehurst, the company being rated, they appealed against the rate, and at the hearing the matter was referred to arbitrators: the respondents had rated the company on the mileage principle, taking the gross receipts of the whole railway, trunk and branches, and deducting therefrom the whole of the expenses, and making allowance for interest and tenants' profits, the balance giving the rateable value of the whole way, and they then ascertained the rateable value of the two and a-half miles of way in Tilehurst, in proportion to the length of the whole line: the appellants contended that as to the expenses to be deducted, they should be confined to the branch line alone, those common to the whole branch to be calculated on the mileage principle, those peculiar to parts of it on the parochial principle, and then gave the estimate; the award of the arbitrators stating these matters was brought before the Court of Queen's Bench, by way of case, and that court, after taking time for consideration, held that in estimating the expenses to be deducted, the company were wrong in treating the branch separately from the trunk; all should be treated as one railway; that in estimating the rateable value of the part of the way within the parish, not only the gross earnings, but the expenses also, must be calculated on the parochial principle; but that as to expenses which are common to the whole line (including those which, though seemingly local, are in fact general, and have reference to the whole way, such as a tunnel, an inclined plane, or the like), they might conveniently be calculated on the mileage principle; and the court referred the matter back to the arbitrators to have the rate amended accordingly

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

(*Reg.* v. *Great Western Rail. Co.*, 15 Q. B. 1085; 21 L. J. M. C. 84; 18 L. T. 285; 16 Jur. 217).

The rateable value of a portion of a railway in a parish, consisting of the net annual profits of the traffic upon the portion in that parish, cannot be increased by adding thereto any profits earned by increased traffic upon other parts of the line (*Great Eastern Rail. Co.* v. *Haughley*, L. R. 1 Q. B. 666; 35 L. J. M. C. 229; 7 B. & S. 624; 14 L. T. (N. S.) 548; 12 Jur. (N. S.) 596; 14 W. R. 779).

Branch line worked at a loss.

The Newmarket Railway Company were rated to the poor, and it appeared that the Eastern Counties Railway Company, in consideration of the benefit likely to accrue to them from the Newmarket Railway, had agreed that whenever the net earnings of the latter railway should not be sufficient to pay a dividend of 3 per cent. to its shareholders, the Eastern Counties Company would pay them such a sum as would raise their dividend to that amount. In 1851, the Eastern Counties Railway accordingly paid to the Newmarket Company 3,705*l.*, to make up their dividend to 3 per cent. In rating the Newmarket Company in 1852, they were rated not only on the profits of their railway, but also on the sum of 3,705*l.* as part of the profits. But Erle and Coleridge, JJ. (*dis.* Lord Campbell, C.J.), held that this sum of 3,705*l.* ought not to be included in the rateable value of the railway, as it was not part of its earnings, but merely a payment arising from a collateral contract of guarantee (*Newmarket Rail. Co.* v. *St. Andrew's-the-Less, Cambridge*, 3 E. & B. 94; 23 L. J. M. C. 76; 18 Jur. 572).

The South Eastern Railway Company rented from another company a branch railway at a yearly rent of 41,000*l.*; but although this branch railway brought a great deal of traffic to the main trunk line, yet the net earnings of the branch line fell very far short of the sum paid as rent. The South Eastern Company being rated for this branch line at 41,000*l.*, the rent paid by them, appealed; and it was holden, under the circumstances, that the rent was not the proper criterion for ascertaining the rateable value of the branch line; the value of the branch line as a feeder to the trunk line should be taken into account in ascertaining its rateable value: in other respects the rateable value must be ascertained in the same manner as in the case of other railways (*South Eastern Rail. Co.* v. *Dorking*, 3 E. & B. 491; 23 L. J. M. C. 84; 18 Jur. 673).

The Royston and Hitchin line of railway had been leased to the Great Northern Railway Company at the rent of 12,000*l.* per annum. An extension of it was subsequently made to Shepreth, and by an arrangement between the Great Northern and the Eastern Counties Companies the line was transferred to the Eastern Counties Company, at a rent of 16,800*l.* per annum. Taken by itself the line was worked at a loss, but it was valuable as contributing to the gross earnings of the Eastern Counties Railway. The sessions found that the Eastern Counties Company were tenants of the Royston and Hitchin line at a rent of 16,800*l.*, and held that such rent was to be taken as the basis of the rateable value; but the court held that the sessions were wrong; for that they were bound to exercise their judgment as to how far the fact that there was no profit arising on the line would affect the sum which a tenant would give (*Reg.* v. *Eastern Counties Rail. Co.*, 18 Jur. 679).

The branch line of a railway ran into a main line, and was leased to the company, the proprietors of the main line, at a fixed rent,

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1. Note.

and the traffic on the branch line yielded no profit whatever with reference to the branch itself, but such traffic passed over the main line and contributed considerably to the traffic and profits of the main line. It was held that the proprietors of the main line, as occupiers of land in the parishes through which the branch line ran, were liable to be rated, not merely with respect to the earnings of such branch lines in such parishes, but in respect of the value to them as bringing a profit to their main line (*London and North Western Rail. Co.* v. *Cannock*, 9 L. T. (N. S.) 325; 28 J. P. 181).

Leased branch line.

In assessing a branch line of a railway, which branch is leased to the owners of the main line into which it runs, the parish authorities are not entitled to take into consideration the value of the branch line to the owners of the main line in addition to the net profits derived from the traffic passing over the branch line through the parish (*Reg.* v. *Llantrissant*, or *Great Western Rail. Co.* v. *Pontypridd*, L. R. 4 Q. B. 354; 38 L. J. M. C. 93; 10 B. & S. 328; 20 L. T. (N. S.) 364; 17 W. R. 671; but see *London and North Western Rail. Co.* v. *Cannock*, 9 L. T. (N. S.) 325).

No profits in particular parish; enhancement of value to rest of line.

Part of the appellants' line of railway passed through a district where there were two other competing lines. The appellants' gross earnings in the respondent parish or part of the district were more than absorbed by the expenses chargeable for the working thereof, *plus* the deductions allowed by 6 & 7 Will. 4, c. 96, s. 1; but on the basis of the receipts derived from the enhancement of the traffic on the other parts of the system, the rateable value of the appellants' line in the parish was equal to 45 per cent. of the gross receipts; and it was held that the appellants were rightly rated at that amount (*London and North Western Rail. Co.* v. *Irthingborough*, 35 L. T. (N. S.) 327; 40 J. P. 790).

Existence of competing lines to be taken into account.

In assessing to the poor rate a part of a branch line of railway passing through a parish, the fact that three other companies would be willing to pay what was equivalent to a large rent for it was to be taken into account as an element in ascertaining the rent at which it might reasonably be expected to let from year to year (*Reg.* v. *London and North Western Rail. Co.*, or *Reg.* v. *Bedford Assessment Committee*, L. R. 9 Q. B. 134; 43 L. J. M. C. 81; 29 L. T. (N. S.) 910; 22 W. R. 263).

Terminal charges.

Sums set apart from the gross earnings as "terminal charges" in respect of the earnings of the staff and appliances at the stations and termini of a railway company, are to be considered as part of the general earnings and not of the particular stations. In calculating, therefore, the amount of the gross earnings and expenses of the line in a parish, the terminal charges must be included (*Reg.* v. *Eastern Counties Rail. Co.*, 4 B. & S. 58; 32 L. J. M. C. 174; 8 L. T. (N. S.) 419; 9 Jur. (N. S.) 1339).

Tolls paid for use of another company's line.

In fixing the value of a railway, the sums paid for tolls to another company on passenger traffic passing over their line in other parishes should be deducted, as they form no part of the profits of the company (*Reg.* v. *St. Pancras*, 3 B. & S. 810; 32 L. J. M. C. 146; 9 Jur. (N. S.) 1102; 8 L. T. (N. S.) 273; 11 W. R. 615).

By an agreement between the North London Railway Company and the London and Brighton Railway Company (forming together a continuous line), it was stipulated that the former should be at

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

liberty to convey such of their passengers as had taken tickets for the entire distance, over the line of the latter, paying for each passenger a certain sum by way of toll to the latter company. *Held* that in estimating for the purposes of a poor rate the gross receipts earned by the North London Railway Company, in respect of portions of their line running through different parishes, the company were at liberty to deduct such sums as had been received by them and paid over to the London and Brighton Company in pursuance of the agreement; and that the residue, after such deduction, was the rateable value of the line (*ib.*).

Tolls legalized but not charged.

By the Stockton and Darlington Amalgamation Acts, 1858, the company were empowered to take a toll not exceeding 2*d.* a ton upon certain goods passing through the Shildon tunnel. This toll the company did not take, upon the ground that if they did take it, the carriage of the goods would be altogether lost to them. The company being rated to the poor rate in respect of this toll, held that as the toll was not in fact taken, it could not be assessed to the poor rate (*Reg.* v. *Stockton and Darlington Rail. Co.*, 8 L. T. (N. S.) 422; 27 J. P. 518).

Rent fixed by Act of Parliament.

Where a special Act which authorized the making of a railway by the C. Company provided that the London and North Western Railway Company should have the right to run their traffic over a part of the line, on payment of a fixed annual rent to the C. Company, and the rent was much less than the actual value of the traffic carried over that part of the line by the London and North Western Railway Company, it was nevertheless held that the C. Company could not be rated in respect of that traffic at a higher sum than the fixed rent, on the ground that the property was "struck with sterility" beyond the amount of the rent (*Altrincham Union* v. *Cheshire Lines Committee*, 15 Q. B. D. 597; 50 J. P. 85). And this decision appears to be in accordance with the decision of the House of Lords in a subsequent case where the facts were as follows: Railway and tramway lines formed part of a dock system, and the dock company were prohibited by statute from taking any tolls for the use of the lines. A tenant could be found who would pay a rent for the lines if such rent could be legally exacted by the dock company; and it was held that as no rent could be earned by the dock company because of the statutory prohibition, the rent which could have been earned but for that prohibition ought not to be taken into consideration in assessing the rateable value of the dock company's property (*Sculcoates Union* v. *Kingston-upon-Hull Dock Co.*, [1895] A. C. 136; 64 L. J. M. C. 49; 71 L. T. 642).

RAILWAY CONNECTED WITH DOCKS AND HARBOURS.

A railway company were assessed to a poor rate in respect of their line of railway, sidings, wharf and tips occupied by them. Certain trustees were in occupation of docks adjacent to the wharf and tips, and the sum of 2,720*l.*, part of the rateable value upon which the company were rated, was made up of the yearly value of wharfage rates, which were to be paid to the trustees under an agreement for a lease of the wharf to the company by the trustees. By this agreement the appellants were to procure all the trade which they might bring for shipment to be shipped at the docks. The practice was that the appellants' contractor furnished to the trustees monthly accounts of the qualities of goods shipped at the

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

wharf, and the trustees collected the rates from the freighters or consignees, and applied them to the purposes of the trust. It was held that the appellants could not by such an arrangement with the trustees free themselves from liability to be rated in respect of the value of the hereditaments which they occupied, and that although the wharfage rates were not received by them, they must be taken into account as enhancing the value of the occupation (*Reg.* v. *Rhymney Rail. Co.*, 10 B. & S. 198; 38 L. J. M. C. 75).

A harbour company were rated to the relief of the poor of the borough of Plymouth as occupiers of the harbour or pool of Sutton, and as receivers of the tolls, profits and dues in respect thereof. *Held*, upon a claim by the guardians to take into account, in ascertaining the rateable value of Sutton pool, the rent received by the harbour company from a railway company for the use of certain tramways constructed by the harbour company, but worked, managed, and maintained exclusively by the railway company, subject to the berthing, loading and unloading of ships by the harbour company alongside the quay, and the lawful duties of the harbour master for the time being, that the railway were the proper persons to be rated, and not the harbour company (*Sutton Harbour Co.* v. *Plymouth Guardians*, 63 L. T. 772; 55 J. P. 232).

RAILWAY SLEEPERS.

Railway sleepers are substantially an addition to the freehold, and give an additional value to the land. They are, therefore, properly included as an item of value in the assessment (*Great Western Rail. Co.* v. *Melksham*, 34 J. P. 692).

STATIONS AND SIDINGS, ETC.

To be assessed at actual value, not at cost of construction.

In rating a railway company the stations on the line must be treated as only indirectly contributing to the profits, and consequently as being liable to be rated as land and buildings, the value of which is to some extent enhanced by their capacity of being employed in connection with the line of railway (*Reg.* v. *Eastern Counties Rail. Co.*, 4 B. & S. 58; 32 L. J. M. C. 174; 8 L. T. (N. S.) 419; 9 Jur. (N. S.) 1339); and they should be assessed, not at the original cost of construction, but at their actual value (*Reg.* v. *North Staffordshire Rail. Co.*, 3 E. & E. 393; 30 L. J. M. C. 68; 3 L. T. (N. S.) 554; 7 Jur. (N. S.) 363; 9 W. R. 235).

What is siding and what line.

In ascertaining how much of the adjacent land occupied by a railway company forms part of the stations and an element of their rateable value as distinguished from the line itself, all sidings, for whatever purpose used, should be included, and only the average quantity of the land required for the main tracks, and the permanent way necessary to such tracks at any point in their length, should be excluded (*London and North Western Rail. Co.* v. *Wigan*, 2 Nev. & Mac. Rail. Cas. 240).

The question whether lines of rails should be considered as running lines directly contributing to the earnings of the company, and rated as such, or should be considered as sidings or station appurtenances, and rated in the same way as the station itself, is a question of fact which may be determined by the quarter sessions on appeal. The test is, what is the principal object for which the line is used? The mere fact that a certain amount of shunting is

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

done upon a line which would otherwise be a running line, or that it is occasionally used for the reception of empty rolling stock, does not convert it into a siding (*Stockport* v. *London and North Western Rail. Co.*, 67 L. J. Q. B. 335; 78 L. T. 180; 62 J. P. 244).

Partial exemption from rating.

Under sect. 88 of the Public Health Act, 1848, the occupier of land "used only as a railway" was to be assessed at one-fourth of the net annual value. *Held* that this partial exemption extended to the line of railway, and to so much of any platform, &c., as constitutes the side of the railway, and to land used as sidings, turn-tables, &c.; but that stations, offices and warehouses, which are ancillary to the railway properly so-called, although necessary for the convenient working of traffic upon it, ought to be assessed at their full net annual value (*South Wales Railway Co.* v. *Swansea*, 24 L. J. M. C. 30; 1 Jur. (N. S.) 326; 3 W. R. 23).

The Liverpool Corporation Act, 1893, s. 36, provides that "land used as a railway made under the powers of any Act of Parliament for public conveyance" shall only be rated at one-fourth of its net annual value. A railway company occupied land for a goods station, which consisted of a large covered shed, open on one side, and with openings in the walls on the other side to admit trucks. Inside were a number of railway lines, comprising sidings, and running alongside platforms, for the purpose of loading and unloading trucks. All these lines were used for the conveyance of goods sent by the public to and from the premises. The premises were at some distance from the company's main line, with which they were connected by a dock line and tramway. The company's premises were acquired and laid out under a special Act. *Held* that the land used for the lines, sidings and platforms inside the premises was not "land used as a railway made under the powers of an Act of Parliament for public conveyance," and that the company were not entitled to the partial exemption in respect of rating for these premises (*Williams* v. *London and North Western Rail. Co.*, [1900] 1 Q. B. 761; and see *Brown* v. *Granville, Lord*, 3 M. & Scott, 453; 10 Bing. 69; *Midland Rail. Co.* v. *Birmingham*, 13 L. T. (N. S.) 404).

EXCLUSIVE OCCUPATION.

Leased lines.

A railway company, the sole owners of a station, in 1848 entered into an arrangement by deed with the Northern Company, by which the latter were for 999 years to have the joint use of part of the station, and the exclusive use of another part on certain stipulated terms. In consequence of a subsequent falling off in their traffic, the station became of less value to the Northern Company, and the real present value to them was much below the sum actually paid under the agreement. *Held*, on a case in which the appellants were to be deemed the persons rateable for the whole occupation of the station, that they were assessable on the full amount which they received from the Northern Company (*Reg.* v. *Fletton*, 3 E. & E. 450; 30 L. J. M. C. 89; 3 L. T. (N. S.) 689; 7 Jur. (N. S.) 518; 25 J. P. 100; S. P. *Reg.* v. *Lord Sherrard*, 33 L. J. M. C. 5).

A railway company entered into agreements giving other companies the use of their line for a long term, on an annual payment, but keeping part of the traffic in their own hands, doing the repairs, paying the servants, and receiving the rent for a crossing on the line. *Held* that the agreements showed that the company had not parted with the possession, and therefore that they were

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

liable to be rated in respect of their occupation of the railway (*Leeds, Bradford and Halifax Rail. Co.* v. *Armley*, 25 J. P. 711).

Local Act.

A local Act authorized certain commissioners to rate all persons who should inhabit, hold or occupy any house, shop, and other buildings within the limits of the Act, and the lands, yards and gardens attached to and with any of the before-mentioned buildings respectively occupied. A railway company laid within the rateable district about a mile and a half of their railway, and a station with a stationmaster's house, a tank, and pumping machine, and a yard for coals and trucks. They were rated upon the value not only of the station and premises, but also of the permanent way; but upon appeal against the rate it was held that the permanent way could not be said to be attached to or occupied with the station (*Great Eastern Rail. Co.* v. *Harwich Commissioners*, 27 L. T. (N. S.) 543).

Stables let by railway company.

By agreement between a railway company and the C. C. company, the latter, in consideration of the railway company permitting them "to occupy and use a stable for the accommodation of four horses (at or near the C. station of the railway company), undertook and agreed that they would pay the railway company the clear monthly rent or sum of 1*l.* 5*s.* without any deduction (property tax excepted), and undertook and agreed, so long as they should occupy and use the stable, to observe, perform, and be bound by the bye-laws, rules, and regulations which should for the time being be issued or prescribed by the railway company for the government and use of their railway stations, premises and conveniences, and further undertook and agreed to quit and deliver up possession of the stable at the expiration of one month after notice in writing," &c. The stable and the road approaching it were within the station and premises of the railway company. The railway company did not, in point of fact, exercise any control over or use the stables during the currency of the agreement, and none of the bye-laws and regulations mentioned in the agreement were material with regard to occupation of the stable. *Held* that the railway company were liable to be rated to the poor rate in respect of the stable, as they remained in occupation of it notwithstanding the agreement (*London and North Western Rail. Co.* v. *Buckmaster*, L. R. 10 Q. B. 444; 44 L. J. M. C. 180; 33 L. T. (N. S.) 329; 24 W. R. 16; 39 J. P. 692).

Bookstall in station.

Where a railway company is assessed to the poor rate for a station generally, the occupier of a bookstall, who occupies the same under the control of the company, has no such exclusive occupation as to render him liable to be rated in respect thereof (*Smith* v. *St. Mary, Lambeth*, 10 Q. B. D. 327; 52 L. J. M. C. 1; 48 L. T. 57; 47 J. P. 244).

Mere running powers do not constitute occupation.

Mere running powers enjoyed by one railway company over the line of another do not constitute an occupation so as to render the company in the enjoyment of such powers liable to be rated in respect thereof. Under the powers of an Act a railway was constructed from G. to C. for the common purposes of the G. W. Company and the M. Company, each paying half of the cost; on completion, the half of the railway nearest G. became the sole property of the M. Company, and the half nearest C. the sole property of the G. W. Company. Each company was bound to keep its own half in repair and supply the staff of officials, &c., necessary on that half for the traffic of both companies. The railway was

POOR RATE—PROPERTY RATEABLE—*Railways—continued.*

Sect. 1.

Note.

constructed for broad and narrow gauge, with three rails on each line, and in practice the G. W. Company used the broad gauge, and the M. Company the narrow, so that of the three rails one was used in common and one exclusively by each company. The traffic of the M. Company far exceeded that of the G. W. Company. Upon this state of facts it was held that there was no rateable occupation by the M. Company of the G. W. Company's half of the railway, but only an easement, and that the M. Company were therefore not rateable in a parish through which that part of the railway passed (*Midland Rail. Co.* v. *Badgworth*, 34 L. J. M. C. 25; 11 Jur. (N. S.) 14; S. C. *Reg.* v. *Midland Rail. Co.*, 11 L. T. (N. S.) 303; S. P. *Reg.* v. *Grand Junction Rail. Co.*, 4 Q. B. 18; 4 Nev. & Mac. Rail. Cas. 1; 13 L. J. M. C. 94; 8 Jur. 508); and *semble*, that the G. W. Company were rateable for their half of the railway in respect of the value of the occupation as enhanced by the profits made over it by the M. Company (*Great Western Rail. Co.* v. *Badgworth*, L. R. 2 Q. B. 251; 36 L. J. M. C. 33; 15 W. R. 579).

LIABILITY TO MAKE GOOD DEFICIENCY IN RATES BY REASON OF TAKING LANDS.

By sect. 133 of the Lands Clauses Act, 1845 (8 & 9 Vict. c. 18), promoters of undertakings becoming possessed under that or their special Act of lands charged with poor rate are liable until the works shall be completed and assessed to the poor rate to make good the deficiency in the assessment for the poor rate by reason of such lands being taken or used for the purposes of the works, which deficiency is to be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the special Act. (See notes to that section *post*, for the cases decided under it.)

PLANTATIONS AND WOODS.

The 43 Eliz. c. 2, s. 1, made "saleable underwoods" rateable to the poor, without mention of any other woods: and it was thence inferred that none other but underwood is rateable. But by the Rating Act, 1874 (37 & 38 Vict. c. 54), so much of the Act of the 43 Eliz. c. 2, s. 1, as relates to the taxation of an occupier of saleable underwoods was repealed, and fresh provisions made as to the rating of lands used for plantations or woods. The old cases have therefore ceased to be applicable to the subject, and the recent decisions will be found in the notes to the Rating Act, 1874, *post*.

RACE-COURSES.

In assessing a race-course and stands upon it the hypothetical tenant must be assumed; and to arrive at the rateable value the takings on the race-course by the tenant from all sources of profit from the occupation must be ascertained as well as the expenses, so as to ascertain what rent a hypothetical tenant would give for liberty to use the land as a race-course. The actual rent paid to the owner of the soil is not necessarily the criterion of value. Therefore, in ascertaining the rateable value of the land used as the race-course, the assessment committee may call for the books of the race-course keeper or may give affirmative evidence of the

POOR RATE—PROPERTY RATEABLE—*Race-courses—continued.*

Sect. 1. Note.

amount of the profits made, they being a material element, though not an absolute test in determining the rateable value (*Reg.* v. *Verrall*, 1 Q. B. D. 9; 45 L. J. M. C. 29; 33 L. T. (N. S.) 379; 24 W. R. 139; 40 J. P. 550).

By the Victoria Local Government Act, 1874, s. 253, "all land shall be rateable property except land the property of Her Majesty, which is unoccupied or used for public purposes"; and on appeal from the Supreme Court of the colony of Victoria, the judicial committee of the Privy Council held, reversing the judgment of the court below, that land used as a race-course under a demise from the Crown to the Victoria racing club for ninety-nine years at a peppercorn rentcharge in trust for the club, and for the purposes of the Victoria Racing Club Act, 1871, was rateable, as the land was not within the exemption, not being used solely for public purposes without any beneficial occupation by individuals (*Essenden, Mayor, &c., of* v. *Blackwood*, 2 App. Cas. 574; 46 L. J. P. C. 98; 36 L. T. (N. S.) 625; 25 W. R. 834; 42 J. P. 180).

RIGHTS OF COMMON, PASTURE, ETC.

Mere right of common not rateable.

A person having a mere right of common is not rateable in respect of it. The burgesses of Nottingham, and the occupiers of ancient messuages there, had, as such, for a certain portion of the year, a right to turn cattle into certain fields, to the exclusion even of the owner of the soil for the time; the court held that these burgesses, &c., had but a right of common in those fields, and were not rateable (*Rex* v. *Churchill*, 4 B. & C. 750; 6 D. & R. 635).

The corporation of the chamberlains, common council and freemen of the borough of Alnwick, were entitled, under ancient and modern grants, to common of pasture and common of turbary in Alnwick Moor, of which the Duke of Northumberland was lord of the manor; the actual enjoyment, however, seemed to show a right somewhat greater than that of commoners, for the corporation appointed and paid moor grieves, a herdsman, &c., and no cattle belonging to the duke were ever depastured upon the moor. The court held that as it appeared clearly from the grants and documents that this corporation were, in fact, entitled only to a right of common, they were not rateable for it to the poor (*Reg.* v. *Alnwick, Chamberlains, &c.*, 9 A. & E. 444; 1 P. & D. 343; 8 L. J. M. C. 50).

Rateable when coupled with an interest in the soil.

The corporation of Huntingdon were the owners of a large tract of land, used by the burgesses as common of pasture for their cattle, according to certain stints annually fixed by the leet jury; some of the burgesses did not feed cattle on the common, and were therefore paid a sum of money by those who did. The court held that the burgesses who exercised this right of pasturage were rateable in respect of it; the whole corporation were owners, and they doled it out amongst some of their members, and when these were in possession of it, there was nothing to distinguish them from any other tenant in common; that their occupation was beneficial sufficiently appeared from the circumstance that those who stocked the land paid a sum of money to those who did not (*Rex* v. *Watson*, 5 East, 480).

The corporation of Aberavon were seised of certain inclosed land, which they let to different burgesses at rents, and the burgesses were rated for them; they were also seised of certain uninclosed

POOR RATE — PROPERTY RATEABLE — *Rights of Common, Pasture, &c.—continued.*

Sect. 1.

Note.

marsh lands, and some mountain land, which were occupied as common lands without stint, by such resident burgesses as had stock to occupy them, the other burgesses not deriving any benefit from them. A person who was rated appealed against the rate on the ground that the corporation ought to have been rated for those marsh and mountain lands, and the sessions therefore quashed the rate. The court said that the case was not stated with sufficient certainty to enable them to judge whether the corporation or the individual burgesses who stocked those uninclosed lands should be rated for them; but some person ought to have been rated for them, as land producing profit; and as no person was, the sessions had done right to quash the rate (*Rex* v. *Aberavon*, 5 East, 453).

The corporation of Sudbury were rated for some pasture land called "Portman's Croft"; this land had been devised in fee to the corporation, and it was every year depastured by the cattle of the burgesses; the burgesses, however, paid a certain sum for each beast they put upon it, and the money thus received was distributed among the poorer burgesses; the land was attended to by a person appointed and paid by the corporation, who kept the keys of the gates, cleaned the ditches, preserved the fences, impounded cattle trespassing, &c. The court held that the corporation was rightly rated; they had the exclusive occupation of the land by their servant, who kept the keys of the gates, &c.; the burgesses put their cattle there merely to agist, and paid for the agistment (*Rex* v. *Sudbury*, 1 B. & C. 389).

The freemen of Monk Ward, in York, were entitled to right of common over some wastes and common fields, upon the inclosures of which, under an Act of Parliament, certain allotments were vested in the lord mayor, &c., of York, for the freemen of Monk Ward; the mayor and aldermen, as wardens of the pasture, annually appointed a pasture-master (who regulated the manner in which the freemen were to enjoy the pasture, and keep the gates, &c., in repair), and a herdsman to take care of the cattle, and the freemen contributed certain sums annually to pay the expenses. The mayor, &c., being rated to the poor for this land, the court held that they were properly rated: the land was clearly rateable to the poor, and the mayor, &c., were the only occupiers who could be rated (*Rex* v. *York, Mayor, &c.*, 6 A. & E. 419).

The soil of a common was vested in the corporation of Lincoln as lords of the manor, and each freeman resident in Lincoln was entitled to keep on the common ten head of cattle. The corporation repaired the fences, appointed and paid a warden to check illegal stocking, &c.; the corporation derived no benefit from the common, but were losers by having to pay the warden: it was held that they were not rateable, as although they were owners and occupiers, the common was subject to a profit *à prendre* in the freemen which exhausted the whole value of the occupation, and consequently no hypothetical tenant would give any rent for the common so long as it was subject to the freemen's rights (*Lincoln, Mayor, &c.* v. *Holmes Common*, L. R. 2 Q. B. 482; 36 L. J. M. C. 73; 8 B. & S. 344; 16 L. T. (N. S.) 739; 15 W. R. 786).

Aftermath.

A person who has the aftermath of meadow land is rateable for it whether he consume it by the mouths of his own cattle or agist the cattle of others upon it, or otherwise dispose of it. In the

POOR RATE — PROPERTY RATEABLE — *Rights of Common, Pasture, &c.—continued.*

Sect. 1.

Note.

vicinity of Tewkesbury there was a large piece of meadow land called Severnham, in which the burgesses formerly had a right of common from August until February; but latterly, by an Act of Parliament, the aftermath of this meadow was vested in trustees, in trust to let it, and to divide the rents amongst the burgesses. In August, 1809, not being able to let it to one person, the trustees took in cattle to graze upon it, at so much per head, amounting altogether to 295*l.*, subject to 30*l.* or 40*l.* expenses. The trustees being rated for this, appealed: but the court held that they were properly rated; the aftermath was vested in them by Act of Parliament, and their mode of letting it was nothing more in substance than taking in cattle to agist upon it, which would leave them still the occupiers; those who had their cattle there could not be deemed occupiers, for none of them had any definite portion of the aftermath let to them, the trustees not being bound to limit the number of cattle (*Rex* v. *Tewkesbury*, 13 East, 155).

RIGHTS OF FISHING AND SPORTING.

The rateability of rights of fishing and sporting when severed from the occupation, and of lands let with reservation of sporting rights, is regulated by the Rating Act, 1874 (37 & 38 Vict. c. 54), ss. 2, 3, 6, *post*, in the notes to which sections the cases decided on the subject are collected.

SCHOOLS.

Voluntary schools.

By the Voluntary Schools Act, 1897 (60 & 61 Vict. c. 5, s. 3), "No person shall be assessed or rated in respect of any land or buildings used exclusively or mainly for the purposes of the schoolrooms, offices, or playground of a voluntary school, except to the extent of any profit derived by the managers of the school from the letting thereof." And by sect. 4 "voluntary school" means a public elementary day school not provided by a school board.

Sunday and ragged schools.

Under 32 & 33 Vict. c. 40, s. 1, a building used as a Sunday or ragged school may be exempted from any rate by the rating authority; and this statute gives the rating authority a discretion whether they will or will not exempt such a building (*Bell* v. *Crane*, L. R. 8 Q. B. 481; 42 L. J. M. C. 122; 29 L. T. (N. S.) 207; 21 W. R. 911).

National schools.

Trustees of national schools are rateable although the sums received from the schools are insufficient for their support (*Laughlin* v. *Saffron Hill Overseers*, 12 L. T. (N. S.) 542; 13 W. R. 678).

Industrial schools.

Managers of industrial schools certified under the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118, s. 7), are rateable (*Durham County Council* v. *Chester-le-Street*, [1891] 1 Q. B. 330; 60 L. J. M. C. 9; 63 L. T. 461; 39 W. R. 188; 57 J. P. 759; *Reg.* v. *West Derby*, L. R. 10 Q. B. 283; 44 L. J. M. C. 98; 32 L. T. (N. S.) 400).

Reformatory schools.

Managers of reformatory schools certified under the Reformatory Schools Act, 1866 (29 & 30 Vict. c. 117, s. 4), are rateable (*Tunnicliffe* v. *Birkdale Overseers*, 20 Q. B. D. 450; 59 L. T. 190; 36 W. R. 360; 52 J. P. 452; overruling *Sheppard* v. *Bradford*, 16 C. B. (N. S.) 369; 33 L. J. M. C. 182).

Board schools.

School boards are rateable in respect of schools built upon land

POOR RATE—PROPERTY RATEABLE—*Schools—continued.*

Sect. 1.

Note.

belonging to the board, and in respect of schools rented by the the board; the fact that they make no profit from the schools is immaterial (*West Bromwich School Board* v. *West Bromwich Overseers*, 13 Q. B. D. 929; 53 L. J. M. C. 153; 52 L. T. 162; 32 W. R. 866; 48 J. P. 808).

In assessing to the poor rate schools occupied by a school board, which can make no profit in a commercial sense as tenant of the schools, the school board itself ought to be considered as a possible tenant, and the gross and rateable values calculated by the rent which the board might reasonably be expected to pay for the premises for use as schools (*Reg.* v. *London School Board*, 17 Q. B. D. 738; 55 L. J. M. C. 169; 55 L. T. 384; 34 W. R. 583; 50 J. P. 419; and see *Chorlton-on-Medlock, Overseers*, v. *Chorlton Union*, 57 L. J. Q. B. 458; 47 L. T. 96).

Charity schools.

The Licensed Victuallers' Society were held rateable in respect of school buildings built by the society for educating children of distressed, decayed, and deceased licensed victuallers; but upon the ground that meetings of the society were held in the school hall (*Licensed Victuallers' Society* v. *St. Mary, Lambeth*, or *R.* v. *Licensed Victuallers' Society*, 1 B. & S. 71; 30 L. J. M. C. 131; 7 Jur. (N. S.) 521; 4 L. T. (N. S.) 241; 2 W. R. 599).

The master of a charity school is liable to be rated for his residence in the school buildings if he has a beneficial occupation. A house and garden, land, and a rent-charge of 25*l.* a year, were given for the purposes of a free school, for the teaching of ten children of the poor inhabitants of Woodbridge, and the master was to have the house for use of himself and his family without payment of rent, &c., together with the garden, land and rent-charge; and the master occupied the house and garden, but let the land to a tenant, who was rated for it. The court held that he was rateable for the house and garden: he was the occupier, and his occupation was beneficial; and whenever there is a beneficial occupier of a house he must be rated for it, though the house be appropriated to charitable purposes (*Rex* v. *Catt*, 6 T. R. 332).

Premises were held in trust to permit the master, wardens, &c., of B. to hold and enjoy a house for the residence of 100 boys, a schoolmaster, and necessary servants for the school; the boys were boarded, &c., and put out as apprentices, and the establishment was purely an endowed one. In these circumstances, it was held that the schoolmaster was rateable for the house, &c., occupied by him, and the master and wardens for the portion appropriated for the boys, servants, schoolhouse and playground (*Reg.* v. *Stapleton*, 4 B. & S. 629; 33 L. J. M. C. 17; 9 L. T. (N. S.) 322; 10 Jur. (N. S.) 44; 27 J. P. 772).

SCIENTIFIC AND LITERARY INSTITUTIONS.

Exemption from rateability in certain cases is conferred on these institutions by the Scientific Societies Act, 1843 (6 & 7 Vict. c. 36), *post*. The cases decided in relation to such exemption are collected in the notes to that Act.

SEWERS AND SEWAGE FARMS AND WORKS.

Underground sewers not rateable.

Sewers belonging to the Metropolitan Board of Works and carried underground not being the subject of a beneficial

POOR RATE — PROPERTY RATEABLE — *Sewers and Sewage Farms and Works—continued.*

Sect. 1. Note.

occupation, are not rateable; but a wharf, engine-house, pumping-station and lay-by for barges, belonging to the board, were held to be rateable (*Reg.* v. *Metropolitan Board of Works*, L. R. 4 Q. B. 15; 38 L. J. M. C. 24; 19 L. T. (N. S.) 348; 17 W. R. 1094).

Where the sewer was constructed aboveground upon an embankment it was held that the Metropolitan Board of Works were not liable to be rated in respect of the land occupied by the sewer and embankment; but they were to be rated in respect of a pumping-station, building and works at the value for which the same would let to a hypothetical tenant from year to year, supposing they were not used for the purposes of the main drainage scheme, but were entirely disconnected therefrom, and applied to any other use or purpose for which they could be made available by a tenant thereof (*Metropolitan Board of Works* v. *West Ham*, L. R. 6 Q. B. 193; 40 L. J. M. C. 30; 23 L. T. (N. S.) 490; 19 W. R. 246; 35 J. P. 230).

These decisions were reviewed by the House of Lords, and it was there held that although it is somewhat of an anomaly that even underground sewers should not be rateable, yet a distinction might be and should be drawn between sewers carried underground and sewers carried aboveground. In the case of the former the surface of the land under which the sewer runs would be or might be rateable, and until the sewer is made the soil actually occupied by the sewer is not rateable, whereas in the case of a sewer carried overground the land over which the sewer is taken is already rateable, and cannot be absolved from rateability by reason of the sewer being carried over it (*London County Council* v. *Erith*, [1893] A. C. 562; 63 L. J. M. C. 9; 69 L. T. 725; 42 W. R. 330; 57 J. P. 821; approving *Burton-on-Trent Corporation* v. *Eggington, Churchwardens, &c.*, 24 Q. B. D. 197; 59 L. J. M. C. 1; 62 L. T. 412; 38 W. R. 181; 54 J. P. 453).

Pumping-stations.

The London County Council were owners of land and premises consisting of a pumping-station and works which they occupied and used as a necessary part of the metropolitan sewage system and to enable them to perform statutory duties. So long as the land and premises were used as part of the sewage system, they were incapable of yielding a profit, and the council were practically the only possible tenants. If the land and premises had been in the possession, not of the council, but of a private owner to be let, the council would have been willing to pay a yearly rent for the same, as part of the metropolitan sewage system, sufficient to support the rateable value at which they were assessed to the poor rate, but except for the purposes of the sewage system, and if the land and premises were disconnected therefrom and in the hands of a tenant applied to any other purpose for which they might be available, the rateable value would be lower. The council were also owners of outfall sewers used for the discharge of sewage into the Thames, and constructed, not underground, but in an embankment erected upon land purchased for that purpose and previously rateable. It was held that even supposing the council could not under the statutes legally be tenants, they ought to be taken into account as possible hypothetical tenants for the purpose of determining the rateable value of the premises which they owned and occupied, and that the council were rateable in respect of the pumping-station and works and the outfall sewers, and were assessed on the true principles (*Ib.*).

Outfall sewers.

POOR RATE — PROPERTY RATEABLE — *Sewers and Sewage Farms and Works—continued.*

Sect. 1.

Note.

Deterioration of surface by underground sewer.

Where the surface of the soil through which an underground sewer runs was rateable before the sewer was constructed, the sewer is exempt from rating only if the surface is not diminished in value by reason of the construction. If the presence of the sewer restricts the uses to which the occupier of the surface can apply it, and thereby renders the surface of less value, the sewer, although underground, is rateable (*Ystradyfodwg and Pontypridd Main Sewerage Board* v. *Newport*, [1900] 1 Q. B. 365).

Sewage farm and works.

A rising main sewer which was carried underground, as well as open and underground sewage carriers and effluent culverts, all forming parts of a system of works for the utilization of sewage upon a sewage farm, were held not exempt from rateability, being distinguished from an ordinary underground sewer, which is exempt, by the fact that they were capable of a beneficial occupation (*Leicester, Mayor, &c., of* v. *Beaumont Leys, Churchwardens*, 63 L. J. M. C. 176; 70 L. T. 659).

The corporation of Burton-on-Trent, under powers given them by statute, purchased for the purpose of disposing of the sewage of Burton-on-Trent, land for a sewage farm, and also land on which they erected a pumping-station, with all necessary engines and machinery to pump the sewage on to the farm. On appeals against assessments on the sewage farm and pumping-station, cases were stated, in which it was found that it was impossible to work the farm except at a loss so long as it remained a sewage farm, and that if the corporation desired to let it as a sewage farm they would be unable to find any one to take it, even at a nominal rent, and that the pumping-station, while used as part of the sewage system, was incapable of yielding a profit, but that if the sewage farm and pumping-station belonged to a private owner the corporation would hire them at a yearly rent sufficiently high to support the rate. It was held, that in making the assessment the corporation ought to be considered as possible tenants, and that therefore the assessment was right (*Burton-on-Trent Corporation* v. *Eggington Overseers*, 24 Q. B. D. 197; 59 L. J. M. C. 1; 62 L. T. 412; 38 W. R. 181; 54 J. P. 453).

TELEGRAPHS AND TELEPHONES.

For the rating of telegraphs, &c., and premises acquired for telegraph purposes, in the hands of the Postmaster-General, see the Telegraph Act, 1868 (31 & 32 Vict. c. 110), *post*, and the cases noted thereunder.

Occupation by posts, &c.

A private telegraph company is liable to be rated in respect of its occupation of land by the posts on which the wires are suspended in the various parishes in which the posts are fixed, and they are rateable in respect of the wires as well as the posts (*Electric Telegraph Co.* v. *Salford*, 11 Exch. 181; 24 L. J. M. C. 146; 1 Jur. (N. S.) 733).

The wires of a telephone company were supported and steadied either by poles fixed in the ground or by being attached by spikes or brackets to the roofs, chimneys, or walls of some of the buildings over which they passed. The consent of the owners or occupiers of the land or buildings was given by agreement, by which the company agreed to pay an annual rent. The company had no key

POOR RATE—PROPERTY RATEABLE—*Telegraphs and Telephones —continued.*

Sect. 1.

Note.

of the outside doors of these buildings, and could only obtain access to the roofs, &c., by the consent of the occupiers. It was held that that was an occupation of land by the posts and wires of the company, and that they were rateable (*Lancashire Telephone Co.* v. *Manchester*, 14 Q. B. D. 267; 54 L. J. M. C. 53; 52 L. T. 793; 33 W. R. 203; 49 J. P. 724).

Exclusive occupation of wires, &c.

A company, however, in order to be rateable must have exclusive occupation of the wires. By agreement between a telegraph company and the Postmaster-General, the latter covenanted with the company that he would provide, and thenceforth during the continuance of the agreement keep appropriated, and maintain for the exclusive use of the company, certain telegraph wires, called in the agreement "special wires" between the landing-place of a foreign telegraphic cable, near the Land's End, and an office of the company at Penzance, and thence to their office in London, with the necessary translators for working them, and a pneumatic tube; such wires, &c., to remain the property of the Postmaster-General, the Postmaster-General to repair all accidental defects or interruption to the working of the wires, &c., but to be paid for making good any damage to the wires occasioned by the neglect or default of the company or their servants, the company not to use the wires for the transmission of any except certain specified messages. And, in consideration of the appropriation and maintenance by the Postmaster-General of the wires, &c., the company covenanted to pay him certain rents, and not to part with the possession of the special wires or any of them, or underlet or assign the benefit of the agreement, without the consent of the Postmaster-General. In the event of their doing so, the Postmaster-General was to be at liberty to determine the contract by notice; and it was further provided that, upon the expiration or determination of the agreement, it should be lawful for the Postmaster-General to resume possession of the special wires, &c. The telegraph posts remained the property of the Postmaster-General, and carried between Penzance and London several wires beyond those appropriated to the use of the company. It was held that the agreement did not give the company such an exclusive occupation of the special wires as to make them rateable to the relief of the poor in respect thereof, even in the parish where the special wires were the only wires affixed to the posts (*New York Telegraph Co.* (or *Compagnie Française du Télégraphie de Paris à New York*) v. *Penzance Union*, 12 Q. B. D. 552; 53 L. J. M. C. 189; 50 L. T. 790; 32 W. R. 859; 48 J. P. 693).

TITHES.

Tithe rent-charge.

By the Tithe Act, 1836 (6 & 7 Will. 4, c. 71), s. 69, tithe rent-charges are subject to all rates in like manner as the tithes commuted for such rent-charge were subject; but by the Tithe Rent Charge (Rates) Act, 1899 (62 & 63 Vict. c. 17), the owner of tithe rent-charge, or of any payment in lieu of tithe, attached to a benefice is exempted from payment of one-half of the poor rate (*inter alia*) assessed on him as owner thereof.

Rate, how recoverable.

Before 1891 the recovery of the poor rate on tithe rent-charge was governed by the Tithe Act, 1836 (6 & 7 Will. 4, c. 71), and the Tithe Act, 1837 (7 Will. 4 & 1 Vict. c. 69), s. 8, which provided that it might be recovered from the occupiers of the lands subject to

POOR RATE—PROPERTY RATEABLE—*Tithes—continued.*

Sect. 1.

Note.

the rent-charge, but now by the Tithe Act, 1891 (54 & 55 Vict. c. 8), s. 6, *post*, the rate is recoverable from the owner of the tithe rent-charge.

Tithes rateable as a "tenement."

By a local Act the poor rate was to be levied on the occupiers of land and tenements, no mention being made of tithes: and the rector being rated for his tithes, appealed. The court held him to be liable; being liable under the statute of Elizabeth, he could only be exempted by express words in the local Act; and as tithes are a tenement, so far from being exempted, he was made expressly liable by the local Act (*Rex* v *Skingle*, 1 Str. 100; S. P. *Reg.* v. *Capel*, 12 A. & E. 382; 4 P. & D. 87; 9 L. J. M. C. 65; 4 Jur. 886, *infra*, p. 89).

A local Act imposed a rate on lands "and other real estate." *Held* that the words were large enough to include a rent-charge in lieu of tithes (*Kerr* v. *Wilkie*, 6 Jur. (N. S.) 383; 1 L. T. (N. S.) 501; 8 W. R. 286).

Easter offerings, &c.

The defendant was proprietor of the tithe sheaf of the parish of St. Paul, and the tithe of all fish taken or caught or brought on shore within the parish; and he and his tenant being rated for them, they appealed, admitting the propriety of the rate as to the tithe sheaf, but objecting to it as to the fish, inasmuch as the other nine-tenths of the fish were not rateable. The court held them to be rateable; the statute of Elizabeth makes all tithes, without exception, rateable; even oblations and other offerings which constitute the rectorial or vicarial dues are rateable (*Rex* v. *Carlyon*, 3 T. R. 385); although doubt has been cast on this last proposition, which was said in the Court of Appeal to be a *dictum* of Lord Kenyon's, unnecessary to the decision of the case (*Rex* v. *Christopherson*, 16 Q. B. D. p. 14; 55 L. J. M. C. 1; 53 L. T. 804; 34 W. R. 86; 50 J. P. 212, *infra*, p. 87).

Tithes let by owner.

The rector or vicar is liable to be rated for his tithes, although he may have let them to the respective tithe-payers (*Rex* v. *Bartlett*, 16 Vin. Abr. 427; *Rex* v. *Turner*, 1 Str. 525; *Rex* v. *Wilson*, 5 N. & M. 119); but if he let them to a tithe-farmer, the farmer, and not the parson or vicar, is rateable for them (*Rex* v. *Lambeth*, 1 Str. 525).

Allotments or rents in lieu of tithes.

If, by Act of Parliament, &c., the tithes be extinguished and an allotment of land, corn rent, or money payment substituted for it, such allotment, rent, or payment will be rateable to the poor in precisely the same way as the tithes for which it was substituted, unless the Act expressly exempt it. By an Inclosure Act, an allotment of a common field was given to the parson in lieu of tithes of the old inclosures, and those owners of old inclosures who had none or not sufficient land in the common field to contribute to the allotment were to pay the rector such sums annually as the commissioners should award, to be levied by distress; and the rector was rated, not only for his allotment in the common field, but for these annual sums also. The court held that he was rightly rated; these annual sums were paid in lieu of tithes, or in lieu of the allotment which would have been given to the rector if the parties had sufficient land in the common field for that purpose, both of which would have been liable to be rated. Then why should that which was substituted for them be exempt? (*Lowndes* v. *Horn*, 2 W. Bl. 1252; S. P. *Hackett* v. *Long Bennington*, 16 C. B. (N. S.) 38; 33 L. J. M. C. 137; 9 L. T. (N. S.) 769; 12 W. R. 433).

By an Inclosure Act certain allotments were set out for the parson

POOR RATE—PROPERTY RATEABLE—*Tithes—continued.*

Sect. 1.

Note.

as compensation for the uninclosed lands of his rectory, and certain rents assigned to him in lieu of tithes. The court held that he was rateable to the poor in respect of these corn rents (*Rex* v. *Wistow*, 5 A. & E. 250; 6 N. & M. 567; 5 L. J. M. C. 122).

The tithes of a parish were altogether extinguished by an Inclosure Act, and in lieu thereof annual rents were to be paid to the rector by the proprietors of lands in the parish, and for the recovery thereof he was to have the same remedy as for rents in ordinary cases. Being rated for these rents, he contended that he was not rateable for them, for as he merely received a rent in lieu of tithe, it was the same as if he let them to a tithe-farmer, in which case he would not be liable to be rated. But the court held that where tithes themselves are rateable, and by an Inclosure Act a sum of money is to be given to the rector in lieu of them, the rector is liable to be rated for the sum of money in like manner as he would be for the tithes for which it was substituted. It was called a rent, but in fact it was nothing more than a sum of money paid in lieu of the tithe (*Rex* v. *Boldero*, 4 B. & C. 467; 6 D. & R. 557; S. P. *Rann* v. *Picking*, Cald. 196; 1 Bott., 6th ed., pl. 179).

Tithes for which compositions have been entered into by the respective occupiers may be rated in the hands of the rector in one entire sum (*Rex* v. *Sussex JJ.*, or *Rex* v. *Hasler*, (1834) 3 N. & M. 263; 3 L. J. M. C. 56).

It must be made clear, however, that the payments are made in substitution for, or in commutation of tithes which were rateable under the statute of Elizabeth, and the onus of proving rateability is upon those imposing the rate (*Edwards* v. *St. Olave's Union*, 7 T. L. R. 647).

"Rector's rate."

By a local Act Falmouth was constituted a separate parish, and it was provided that the parson should receive the tithes within the limit of the parish. It was also provided that the corporation of Falmouth should be empowered to levy a rate called the "rector's rate" upon all shops and houses in the parish, to be paid to the parson. When shops, houses, &c., had been built on land liable to tithe, tithe had not been collected in respect thereof. On the parson being rated in respect of the "rector's rate," it was held that he was not so rateable, inasmuch as it was not a payment made to him in lieu of tithes (*Reg.* v. *Christopherson*, 16 Q. B. D. 7; 55 L. J. M. C. 1; 53 L. T. 804; 34 W. R. 86; 50 J. P. 212).

By 37 Hen. 8, c. 12, provision was made for payment to the clergy of the city of London of a rate upon the inhabitants calculated upon the rent of the houses in the city, and in this and subsequent statutes these payments were described as tithes. By a special Act in 1881 it was provided that all tithes and sums of money in lieu of tithes arising or growing due in a parish in London should cease and be extinguished, and the tithe-owner should receive in lieu thereof a fixed annual sum to be levied in the same manner as the poor rates. Neither the above-mentioned tithes, nor the fixed annual sum in lieu thereof, had ever been rated to the poor before 1885; when, the owner being rated, it was held that he was not rateable in respect of this fixed annual sum, as such sum was not a payment in lieu of any tithes which were rateable under the statute of Elizabeth (*Esdaile* v. *City of London*, or *Payne* v. *Esdaile*, 19 Q. B. D. 431; 56 L. J. M. C. 149; 57 L. T. 749; 35 W. R. 722; 51 J. P. 564).

POOR RATE—PROPERTY RATEABLE—*Tithes—continued.*

Sect. 1.

Note.

Tithes not extinguished but transferred.

If the Act has not the effect of extinguishing the tithes, but merely of transferring them to another person, who is to pay the parson a sum of money in lieu of them, the parson is not rateable in respect of the sum of money thus received by him (*Rex* v. *Great Hambleton*, 1 A. & E. 145).

Exemption by special Act.

By an Inclosure Act the vicar was to have, in lieu of his tithes, a yearly sum, "free and clear of all rates, taxes, and deductions whatsoever." The court held that these words amounted to an exemption of the vicar from the poor rate in respect of the yearly sum so paid to him (*Chatfield* v. *Ruston*, 3 B. & C. 863; S. P. *Mitchell* v. *Fordham*, 6 B. & C. 274).

By a private Inclosure Act it was enacted that an annual rent or sum of 90*l.* should be vested in the rector of the parish in lieu of tithes of the land to be inclosed, to be paid "free and clear of and from all deductions, defalcations, or abatements for in respect of reprises and outgoings whatsoever, other than and except such proportion of the tax charged upon land by authority of Parliament as the said annual rent of 90*l.* shall bear to the yearly value of the lands thereby charged or made liable to the payment of the same rent"; but the tithes of the rector of other parts of the parish were reserved as before. As to these latter tithes, there was no question but the rector was rateable; the only question was whether he was rateable on this yearly payment of 90*l.*, which was in lieu of the tithes of the common fields inclosed; and the court held that he was not, but he was to have the whole 90*l.* clear of all deductions whatever (*Reg.* v. *Shaw*, 12 Q. B. 419; 17 L. J. M. C. 137; 12 Jur. 651; 12 J. P. 443).

Mode of assessment and deductions.

A parish was inclosed by Act of Parliament, the tithes extinguished, and a corn rent or compensation substituted for them. A poor rate being made, the farmers in the parish were charged upon the full rack-rent or yearly value of their farms, and the rector upon the amount of his corn rent, after deducting the probable amount of parish taxes. The rector appealed against this rate and contended—1st, that the farmers should be rated in respect of the corn rents paid by them; but the court held that this corn rent, like the tithe for which it was substituted, was an outgoing, for which the farmer could not be rated; 2ndly, he contended that if he were to be rated on the whole of his income the farmers ought to be rated on the whole of theirs, and not merely upon the rental, and the court were of that opinion; 3rdly, he contended that the amount of the land tax paid by him should also be deducted, and the court held that such ought to be the case if the farmers paid the land tax and were not allowed it by the landlords, but not otherwise; 4thly, that the ecclesiastical dues he paid should be deducted, and the court held that they should; 5thly, he contended that he ought to be allowed for the expense of providing for the duties of the incumbency; but the court thought otherwise, because the duties were personal and ought to be performed by himself (*Rex* v. *Joddrell*, 1 B. & Ad. 403; now overruled in part by cases *infra*).

The vicar of the parish of Watford appealed against a rate, whereby, for the compositions he received for small tithes amounting to 66*0l.* a year, he was assessed at 54*0l.* (after deducting 82*l.* 15*s.* for tenants' rates and ecclesiastical dues), the said sum of 54*0l.* being such as these tithes might be expected to let at to a

POOR RATE—PROPERTY RATEABLE—*Tithes—continued.*

Sect. 1.

Note.

tenant from year to year. The court held that the vicar in this case was properly rated. Tithe is a hereditament within the meaning of the Parochial Assessment Act (6 & 7 Will. 4, c. 96, s. 1), and must be rated in like manner as other hereditaments, namely, at a sum equal to the rent at which it might reasonably be expected to let from year to year, first deducting the rates and taxes, &c., to which it is subject, there being in this respect no legal difference between the legal liabilities of the tithe-owner and the occupier of land; but as to the proviso at the end of that section, it does not apply to tithes (*R.* v. *Capel*, 12 A. & E. 382; 4 P. & D. 87; 9 L. J. M. C. 65; 4 Jur. 886).

The parish of H., in the metropolis, was divided for certain purposes, of which rating for the relief of the poor was not one, into three districts. After the division the tithes, and subsequently the tithe rent-charges, were divided among the incumbents of the three new parishes in certain fixed proportions, and were subject to the same rates as if they had not been so divided. A poor rate was made for the whole parish, in which the rectors of the new parishes were assessed in respect of their tithe rent-charge, and they claimed, in order to arrive at the rateable value of the tithe rent-charge, to deduct from the gross sum allowances in respect of the following items: 1. Rates (other than general rate, lighting rate and sewers rate); 2. Estimated law expenses in enforcing payment; 3. Estimated expenses of collection other than above; 4. Land tax; 5. Property tax. (The Poor Law Board were informed by the Commissioners of Inland Revenue, in reply to an inquiry on the subject, that neither the owners of tithe rent-charges nor their lessees are chargeable with income tax under Schedule B. of 5 & 6 Vict. c. 35, in respect of such rent-charges.) 6. Estimated losses by non-payment; 7. General rate; 8. Lighting rate; 9. Sewers rate; 10. Estimated profit of rent-charge farmed by yearly tenant; 11. Tenths; 12. Ecclesiastical dues; 13. Curate's salary; 14. Amount paid towards the salary of the minister of the district church; 15. Estimated amount of the rector's personal services. *Held* that the appellants were entitled to deductions in respect of the items claimed, except sewers rate, the estimated profit of rent-charge farmed by a yearly tenant, land tax, and the personal services of the rector, for which no deduction was in any case to be made; that they were not entitled to deduction in respect of the salary of the minister of the district church, if the payment was voluntary, and might be withheld at pleasure, but were entitled to it if the payment was compulsory, and virtually separated from the appellants' emoluments; and that they were entitled to reasonable deduction in respect of curate's salary, if the population was sufficiently large to make the services of a curate necessary (*Reg.* v. *Goodchild*; *Reg.* v. *Lamb*, E. B. & E. 1; 27 L. J. M. C. 233; 4 Jur. (N. S.) 1050; 31 L. T. 9; 22 J. P. 144). But the decision of the court allowing a deduction to be made in respect of curate's salary has since been overruled, and no such deduction is allowable, although the appointment of the curate be necessary and unavoidable (*Reg.* v. *Sherford*, or *Sherwood*, L. R. 2 Q. B. 503; 36 L. J. M. C. 113; 8 B. & S. 596; 16 L. T. (N. S.) 663; 15 W. R. 1035; *Wheeler* v. *Burmington*, 1 B. & S. 709; 31 L. J. M. C. 57; 8 Jur. (N. S.) 304; 5 L. T. (N. S.) 345; overruling *Williams* v. *Llangeinwen*, 1 B. & S. 699; 31 L. J. M. C. 54; 5 L. T. (N. S.) 309; 8 Jur. (N. S.) 303).

Curate's salary.

Upon an appeal to quarter sessions by the owners of a rectorial

POOR RATE—PROPERTY RATEABLE—*Tithes—continued.*

Sect. 1.

Note.

tithe rent-charge from the decision of an assessment committee as to the rateable value thereof, the court of quarter sessions allowed deductions from the gross estimated rental in respect of the remuneration of a collector, legal costs and out-of-pocket expenses, bad debts and irregularity in payments, and tenants' taxes, and also for tenants' profits, and for the repair of the chancel of the parish church. *Held*, on appeal, first, that, in the absence of a finding of fact that the amount allowed for expenses of collection, bad debts, and legal and other expenses was insufficient to induce a tenant to take the tithe rent-charge without a further allowance, the court of quarter sessions were wrong in allowing a deduction for tenants' profits; and secondly, that, as it did not appear that a tenant could be charged with the repair of the chancel of the church, the deduction upon that ground was also wrong (*St. Asaph* v. *Llanrhaiadr-yn-Mochant*, [1897] 1 Q. B. 511; 66 L. J. Q. B. 267; 76 L. T. 42; 61 J. P. 213).

A vicar claimed to deduct from the gross value of his tithe commutation rent-charge, in order to ascertain its rateable value, a sum made up of interest and part principal annually payable by him as vicar to the governors of Queen Anne's bounty, in liquidation of money borrowed by him from them, to rebuild the parsonage house, and secured by a mortgage of all the tithes and profits of the living. *Held* that the deduction was not authorized (*Reg.* v. *Lamberhurst* or *Hawkins*, 27 L. J. M. C. 248; 31 L. T. 9; 4 Jur. (N. S.) 1050; 22 J. P. 148).

By way of endowment of the minister of a new district, the rector of the parish of T. voluntarily granted to such minister and his successors "one clear yearly rent-charge or sum of 150*l.*, to be payable half-yearly," &c., "to be for ever issuing and payable out of, and charged upon and being part of all that the rectory," &c. The deed gave a power of entry and distress in case of non-payment of the money, but the money had been paid and the power had not been exercised. It was held that the rector of T. was not entitled to claim a deduction from the total amount of his tithe rent-charge in respect of the 150*l.* thus granted away (*Lawrence* v. *Tolleshunt Knights*, 2 B. & S. 533; 31 L. J. M. C. 148; 10 W. R. 620); and it was also held that the minister to whom such 150*l.* was granted was not rateable in respect thereof (*Frend* v. *Tolleshunt Knights*, 1 E. & E. 753; 28 L. J. M. C. 169; 33 L. T. 89; 5 Jur. (N. S.) 1080).

G. had a lease of the tithe rent-charge of the parish of H. from the Archbishop of Canterbury, as owner, subject to a payment of 40*l.* a year, duly charged on the said rent-charge by the archbishop, payable to the curate of T. The lessee paid the 40*l.* to the curate of T. as required by the lease. *Held* that G. was not entitled to a deduction of the 40*l.*, in making his tithe rent-charge assessable to the poor rate (*Reg.* v. *Groves*, or *Groves* v. *Hernhill*, 2 E. & E. 793; 29 L. J. M. C. 179; 6 Jur. (N. S.) 1014).

TOLLS.

Not rateable *per se*.

"It is very clear in law that tolls *per se* are not the subject of a rate. It is equally clear that when parties occupy land they are rateable for the value of that land, and that tolls, though not rateable, may be considered as enhancing the value of the occupation

POOR RATE—PROPERTY RATEABLE—*Tolls—continued.*

Sect. 1.

Note.

of the land, whenever it appears that the occupation of the land is so connected with them that it can be said that the tolls or rates are levied on account of the occupation of the land; or, perhaps, though not levied on account of the occupation of the land, where they could not be received without an occupation of land (*New Shoreham Harbour Commissioners* v. *Lancing*, L. R. 5 Q. B. 489; 39 L. J. M. C. 121; 22 L. T. (N. S.) 434; cited in *Blyth Harbour Commissioners* v. *Tynemouth*, [1894] 2 Q. B. p. 683; 63 L. J. M. C. 274; 71 L. T. 34; 59 J. P. 4).

Toll-house.

A toll-house is increasedly rateable by reason of the facilities which it affords for the collection of the tolls (*Reg.* or *Williams* v. *Bedminster Union*, 45 L. J. M. C. 117; 34 L. T. (N. S.) 795; *Reg.* v. *St. George the Martyr* v. *Southwark*, 3 W. R. 515); but the occupier must be rated in respect of the toll-house or some premises, and not in respect of the tolls, otherwise the rate will be bad (*Rex* v. *Eyre*, 12 East, 416).

The lessee of a toll traverse and of a toll-house (which he occupies) is not rateable for the tolls, but for the toll-house only (*Rex* v. *Snowdon*, 4 B. & Ad. 713; 1 N. & M. 459; 2 L. J. M. C. 60).

Canal and navigation tolls.

Canal tolls are not rateable *per se* (*Rex* v. *St. Mary's, Leicester*, 6 M. & S. 400).

The Aire and Calder Navigation Company and one Atkinson were the proprietors and occupiers of mills on the river Aire, in the township of Hunslet; these mills being formerly injured by the navigation, the proprietors or occupiers were enabled by Act of Parliament to take a toll of 1*s.* for every vessel, &c., passing up or down the river, to be collected at the lock nearest to the mills, as compensation for the injury, but which lock was not in Hunslet. The proprietors, being rated for the mills and these tolls, appealed: the court held that they were not rateable for the tolls; for these, as tolls, even if they were collected in Hunslet, they could not be rated; and they could not be rated for them as profit arising from the mills, for they might let the mills and reserve to themselves the tolls (*Rex* v. *Aire and Calder Navigation*, 3 B. & Ad. 538).

The property in respect of which tolls are taken is rateable with reference to the amount of tolls so taken. The defendants, devisees in trust under the will of the Duke of Bridgwater, were rated in Manchester for "the Rochdale canal, lock, tunnel, dues or rates, and for certain wharves, situate in Manchester"; and it appeared that the Duke of Bridgwater, in consideration of his allowing a junction between the Rochdale Canal and his, which would be much for the benefit of Manchester, but would have the effect of lessening his wharfage dues there, was allowed by Act of Parliament to build a lock near the junction, and collect certain rates, as a compensation for the diminution of his wharfage dues; and it was in respect of this lock that the defendants (who were not inhabitants of Manchester) were rated, and they appealed against the rate. The court held that they were properly rated: tolls are not rateable *per se*, but they are so when connected and rated with real and substantial property in the parish, as yielding profit by means of these tolls: the defendants were rated for the lock; and the "dues or rates" were only other names for the same thing; even if these dues were to be deemed a substituted profit of the wharves, the

POOR RATE—PROPERTY RATEABLE—*Tolls—continued.*

Sect. 1.

Note.

defendants were rated for the wharves also, and therefore rightly rated (*Rex* v. *Macdonald*, 12 East, 324).

The corporation of London were enabled by Act of Parliament to demand and receive certain tolls from barges using an ancient towing-path on the banks of the Thames which belonged to them; and being rated for these tolls, but nominally as for a bargeway and toll-gate, they appealed. The court held them to be rateable (*Rex* v. *London, Mayor, &c., of*, 4 T. R. 21).

See also cases collected under heading "Canals and Navigable Rivers," *supra*.

Bridge tolls.

The occupier of a bridge which rests upon land in two parishes may be rated in both parishes. The Hammersmith Bridge Company purchased land on both sides of the Thames for the purpose of building the bridge; one half of the bridge was in Barnes, the other half in Hammersmith, but the toll-house was on the Hammersmith side, and there was no building nor were any tolls received on the Barnes side; the company being rated in Barnes in respect of their land there, on which the bridge was built, and the tolls arising from it, appealed; but the court held that they were properly rated; they were the occupiers of land in Barnes, and the tolls were earned in respect of that land as well as that of the land in Hammersmith, although payable altogether in Hammersmith (*Rex* v. *Barnes*, 1 B. & Ad. 113). Subsequently, where the same company were rated for their bridge, the court held that they were rateable in Hammersmith and Barnes in equal moieties, although the approaches to the bridge, which were on their land, were on the Barnes side 5,328 yards in length, while those on the Fulham side were only 677 yards; the bridge itself was the direct source of the rateable value, the passage over the river being that which was paid for; the approaches indirectly conduced to that production, and the expenses incidental to them should be deducted from the gross receipts; after which the net rateable value would belong to the half of the bridge on either side, in equal moieties (*Reg.* v. *Hammersmith Bridge Co.*, 15 Q. B. 369; 18 L. J. M. C. 85; 3 N. S. C. 424; 13 Jur. 190).

The Marquis of Salisbury was rated to the poor as owner and occupier of Ware Bridge, where he received certain tolls; and he appealed, first upon the ground that he had let the tolls to a tenant, who was the person to be rated; but as the letting was by parol and the tolls could only pass by deed, the court held the demise to be a nullity. Next it was objected that the marquis had only the tolls, and tolls *per se* were not rateable; but as it appeared that he held them under a grant from the Crown, which, after granting him the honour, castle, manor, &c., of Hertford, granted him the tolls of this bridge as tolls traverse, which implied that he had also the ownership of the bridge itself, and he had kept the abutments and other parts of the bridge (except the road over it) in repair for the last twenty years, the court held that he was properly rated for it. Lastly, it was contended that as only one end of the bridge was in the parish in which he was rated, and the toll not collected there, the toll-house being at the other side of the bridge, which was in another parish, he ought not to have been rated; but the court held that though the tolls were collected in one parish, the marquis was rateable for them in both parishes

POOR RATE—PROPERTY RATEABLE—*Tolls—continued.*

Sect. 1.

Note.

(*Reg.* v. *Salisbury, Marquis of*, 8 A. & E. 716; 3 N. & P. 476; 7 L. J. M. C. 110).

A local Act which empowered a company to build a bridge and borrow money on mortgage, and authorized the taking of tolls, enacted that the tolls should be applied, first, in discharging the expenses of the Act, and paying the mortgagees their interest, and the surplus in paying the proprietors a dividend not exceeding 7½ per cent. on their shares. The excess beyond the dividends was to be applied in paying off the capital advanced by the proprietors, then in paying off the mortgage debt, and then in forming a fund for repairs, &c. When that was done the tolls were to cease. *Held* that the company was beneficially interested in the tolls until their capital was paid off, and therefore rateable as occupiers of the bridge (*Reg.* v. *Blackfriars Bridge Co.*, 9 A. & E. 828; 1 P. & D. 603).

A public bridge over the river Thames, the tolls on which had been abolished, was held not to be rateable, it not being capable of yielding a profit, and therefore having no rateable value (*Hare* v. *Putney Overseers*, 7 Q. B. D. 223; 50 L. J. M. C. 81; 45 L. T. 337).

Turnpike tolls.

Turnpike tolls and toll-houses were exempted from rating by 3 Geo. 4, c. 126, s. 51. Trustees were appointed by Act of Parliament to make a certain road, to raise a capital stock from shareholders for the purpose (each trustee to hold five shares at least), and to charge certain tolls for the purpose of keeping the road in repair and of paying the shareholders their interest and ultimately their principal; but the tolls were not sufficient to pay the interest, and none of the principal had been paid; and the trustees being rated to the poor for this road, as land upon which they had made a road, and in respect of which they received tolls, appealed against the rate. The court held that they were not rateable; the road was in fact a turnpike road, and as such was not rateable to the poor, by 3 Geo. 4, c. 126, s. 51 (*Rex* v. *Trustees of Great Dover Road*, 5 A. & E. 692).

Ferry tolls.

One Nicholson was rated in Monkwearmouth Shore in respect of the tolls on an ancient ferry over the river Wear, between that place and Sunderland, of which he was the lessee at a rent of 350*l*. He lived in Sunderland; the boats at night were locked on the Sunderland side of the river, and formerly the lessee of the tolls was rated in Sunderland upon the whole amount of them, until an inhabitant of Monkwearmouth Shore became lessee of them, when he was rated upon half in Monkwearmouth Shore, and half in Sunderland, and that mode of rating continued up to the time of the present appeal; the lessee had, by virtue of a certain award, a right of landing upon a particular place in Monkwearmouth Shore, but the landing-place was of little or no value, if not used for the purposes of a ferry. The court held that the appellant was not rateable in respect of these tolls in Monkwearmouth Shore (*Rex* v. *Nicholson*, 12 East, 330; S. P. *Williams* v. *Jones*, 12 East, 346).

A ferry across the river Tyne, between North and South Shields, was the property and in the occupation of a company, who by their Act had authority to purchase land on each side of the river for landing-places. They purchased land accordingly, the landing-place on the north bank of the river being in the township of

POOR RATE—PROPERTY RATEABLE—*Tolls—continued.*

Sect. 1.

Note.

North Shields, that on the south bank in the township of South Shields, and the river between them in the parish of St. Nicholas, Newcastle. Up to 1851 the company were rated in each of those townships at the sum of 70*l.*, being the annual rateable value of each landing-place, irrespective of the tolls, but in 1851 the overseers of North Shields, conceiving them to be rateable for their tolls, in connection with the landing-places, rated them in the sum of 531*l.*, being a moiety of the tolls less the expenses; the company appealed, alleging that their boats, by which the tolls were earned, were always afloat in the river, and if they were rateable for the tolls at all, it must be in the parish of St. Nicholas, where they were earned. The court held they were wrongly rated in North Shields in respect of any portion of their tolls; the ferry and tolls were not appurtenant to the landing-places, so as to become part of the land, but, on the contrary, the landing-places were merely accessory and incidental to the ferry, for which alone the tolls were payable (*Reg.* v. *North and South Shields Ferry Co.*, 1 E. & B. 140; 22 L. J. M. C. 9; 17 Jur. 181; 17 J. P. 21).

Lighthouse and harbour tolls.

Formerly by the Merchant Shipping Act, 1854 (17 & 18 Vict. c. 104), s. 430, and now by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 731, all lighthouses, buoys, beacons and light-dues under the control of the general lighthouse authorities are exempted from all public, parochial, and local taxes, duties and rates of every kind. But this exemption does not extend to lighthouses under the control of local authorities (*Mersey Docks and Harbour Board* v. *Llaneilian*, 14 Q. B. D. 770; 51 L. T. 62; 48 J. P. 391).

Tolls of a lighthouse are not rateable, as they do not constitute part of the profits of the land or house where the light is placed (*Ib.*).

The proprietor of a lighthouse locally situate within the parish of Lydd resided elsewhere, and the dues were collected at various places out of Lydd, on account of vessels which never came within it; the annual value of the lighthouse, independently of the dues, was 4*l.*, and the annual value of the dues 2,250*l.*; and the defendant was rated for both lighthouse and dues, and appealed. The court held that, although this lighthouse was the subject of a rate, considered as a mere building independent of the dues, yet the appellant could not be rated for the dues in the parish (*Rex* v. *Coke*, 5 B. & C. 797; S. P. *Rex* v. *Teignmouth*, 12 East, 46; *Rex* v. *Fowke*, 5 B. & C. 814).

Along the western shore of the harbour of Swansea, and within the borough, all goods imported or exported were landed on and shipped from the quays, which were the soil and freehold of the corporation, except two which belonged to the Duke of Beaufort; some of the corporation quays were leased to private individuals; tolls and dues were payable to the corporation for the landing and shipping of goods, not only on their own quays, but on those also of the Duke of Beaufort, and were described as town dues, and sometimes as quayage; the lessees of the quays were rated for their occupation, without taking into account these tolls and dues, and the corporation were rated for the tolls and dues. The Court of Queen's Bench held that the corporation were not liable to be rated for them; these tolls and dues appeared to be entirely irrespective of the use of the soil, and as mere tolls and dues, were not rateable: if indeed they were payments made for the use of the soil, and the

POOR RATE—PROPERTY RATEABLE—*Tolls—continued.*

Sect. 1.

Note.

corporation were in the occupation of the quays, it would be otherwise (*Lewis* v. *Swansea*, 5 E. & B. 508; 25 L. J. M. C. 33).

Harbour tolls received by commissioners in respect of all ships entering a harbour are not to be taken into account as enhancing the rateable value of quays used by some of the ships entering the harbour (*Blyth Harbour Commissioners* v. *Tynemouth*, [1894] 2 Q. B. 675; 63 L. J. M. C. 274; 71 L. T. 34; 59 J. P. 4).

Where harbour tolls and dock dues are separable the amount received by a dock company for harbour tolls must not be taken into calculation in assessing the rateable value of the docks (*Reg.* v. *Kingston-on-Hull Dock Co.*, 7 Q. B. 2; 14 L. J. M. C. 114; 9 Jur. 442; *Reg.* v. *Berwick Assessment Committee*, 16 Q. B. D. 493; 55 L. J. M. C. 84; 54 L. T. 159; 50 J. P. 71; and see cases collected under "Docks, Harbours and Piers," *supra*).

As to the non-rateability of a lighthouse on the ground that it was incapable of profitable occupation, see *Mersey Docks and Harbour Board* v. *Llaneilian*, 14 Q. B. D. 770; which, however, proceeded on principles disapproved of in *London County Council* v. *Erith*, (1893) A. C. p. 591.

Anchorage and beaconage tolls.

Anchorage and beaconage tolls are rateable in all the parishes in which the port is situate and to which ships paying the toll come, in the proportion of the number of ships coming into each of the parishes respectively (*Reg.* or *Bishopwearmouth* v. *Durham, Earl of*, 2 E. & E. 230; 28 L. J. M. C. 232; 5 Jur. (N. S.) 1306).

Market tolls, &c.

Lord Egremont, lord of the manor of Cockermouth, and owner of the soil of the streets of the town, was entitled to tolls for all corn brought for sale to the market there, and to the stallage and piccage of the market; the tolls he let to defendant, the stallage and piccage to others. The defendant (who was not an inhabitant) being rated to the poor for these tolls, appealed; and the court held that he was not liable; stallage and piccage are connected with the soil, tolls are not; one person may have the tolls, and the soil belong to another; as there was nothing, therefore, to give these tolls a corporeal quality, the defendant ought not to have been rated for them (*Rex* v. *Bell*, 5 M. & S. 221; S. P. *Rex* v. *Snowdon*, 4 B. & Ad. 713).

Where the appellants were rated for the tolls of a market, and the respondents insisted that they were liable, inasmuch as the tolls were payable and received in a room in the market-house: the court held that the tolls being paid and received in that room did not alter the nature of the toll, which was an incorporeal hereditament and not the subject of a rate (*Roberts* v. *Aylesbury*, 1 E. & B. 423; 22 L. J. M. C. 34; 17 Jur. 36; 17 J. P. 55). But if tolls be taken for the use of land as a market, they are rateable in the same manner as the profits of lands are rateable in other cases (see *Worcester* v. *St. Clements*, 22 J. P. 319).

A local Act directed rates to be made upon messuages, shops, &c., and "other tenements." A rate was made in respect "of market sites, streets, lands and tenements at the market-place, and the tolls, dues, rates and profits in respect thereof." The lord of the manor being rated in respect of his emoluments from the market, it was held that the rate was bad, as the word "tenements" did not include such property (*Rex* v. *Mosley*, 2 B. & C. 226; 3 D. & R. 385).

POOR RATE—PROPERTY RATEABLE—*Tolls—continued.*

Sect. 1.

Note.

The lessee of a market is not rateable in respect of tolls received for animals brought into the market-place for sale, but not placed under covered places or in pens so as to occupy any part of the soil (*Reg.* v. *Caswell*, or *Caswell* v. *Wolverhampton*, L. R. 7 Q. B. 328; 41 L. J. M. C. 108; 26 L. T. (N. S.) 574; 20 W. R. 624). But tolls for the admittance of cattle to a market are incident to the soil so as to be taken into consideration as increasing the value of the occupation; and are not mere market tolls which cannot be rated (*Percy* v. *Ashford Union*, 34 L. T. (N. S.) 579; 40 J. P. 502).

A poor rate assessed upon payments made for sittings, for putting up stalls and tables, for the standing of carts and placing of baskets in a market-place, is sustainable under the statute of Elizabeth, or under a local Act which empowers the rating of "all and every the occupiers of lands, houses and tenements" (*Rex* v. *St. Peter Mancroft, Norwich*, 6 L. J. (O. S.) M. C. 69).

Where stalls in a market-house, not fixtures to the soil, are let to persons who have the use and occupation of them only on certain days and between stated hours and on other occasions, are excluded from the market-house, such persons are not liable to be rated (*Spear* v. *Bodmin Union*, 43 L. T. 127).

Stallage and lairage tolls.

Market tolls payable in respect of the right of sale within certain defined portions of the market are in the nature of stallage tolls, and are therefore liable to be rated (*Reg.* v. *Duke of Bedford*, or *Bedford, Duke of*, v. *St. Paul's, Covent Garden*, 51 L. J. M. C. 41; 45 L. T. 616; 30 W. R. 411; 46 J. P. 581); so lairage dues in the nature of charges for the use and occupation of the soil are rateable (*London, Mayor, &c., of*, v. *Greenwich Union Assessment Committee*, 48 L. T. 437; 47 J. P. 420); and tolls taken by a corporation for the use of pig and sheep stalls are not exempt on the ground of being incorporeal hereditaments (*Reg.* v. *Derby JJ.*, 28 L. T. 89).

Deduction for rent.

By a local Act a market company were incorporated and authorized to regulate the market-places belonging to the corporation of Brecon, and to receive all tolls payable therefrom, which were thereby vested in them. They were, however, by another section to pay to the corporation 210*l.* a year, to be charged on the scheduled tolls, markets and market-places by the Act vested in the company, and to be a first charge on those tolls next after the expenses of receiving them. This annual sum was to be devoted by the corporation to the payment of incumbrances incurred by the building of the old market-place. The company, under the authority of the Act, constructed new market-places on land vested in them and collected tolls for the old and new markets. Upon a case stated, it was held that the company were not entitled to a deduction of this 210*l.* from the net annual value of their tolls in their assessment to the poor rate (*Brecon Market Co.* v. *St. Mary's, Brecon*, 36 L. T. (N. S.) 109; 41 J. P. 325).

TRAMWAYS.

The owners of tramways constructed under the provisions of the Tramways Act, 1870 (33 & 34 Vict. c. 78), are rateable to the poor rate in respect of the occupation of the soil by the tramways so constructed, though the public may still use the surface of the rails as part of the highway (*Pimlico Tramway Co.* v. *Greenwich Union*, L. R. 9 Q. B. 9; 43 L. J. M. C. 29; 29 L. T. (N. S.) 605; 22 W. R. 87).

POOR RATE—PROPERTY RATEABLE—*Tramways—continued.*

Sect. 1.

Note.

Mode of assessment.

In assessing the rateable value of tramways the annual gross traffic receipts earned over the entire system must be taken as the basis of the estimate of the rent, and the net receipts in each parish as the criterion of the rateable value in each parish. Where a tramway route begins and ends in the same parish the net receipts of that route is the value upon which the tramway owners must be rated. Where a tramway route extends through two or more parishes the fairest practicable mode of apportioning is by dividing the receipts from each district service route in proportion to the lineal mileage of such route in each parish respectively. The general expenses, except horse expenses, should be allowed proportionally to the number of car miles run over in each parish upon each of the several distinct service routes therein (*London Tramways Co.* v. *Lambeth*, 31 L. T. (N. S.) 319).

UNIVERSITIES.

In 1857 a special case was stated for the opinion of the court as to the rateability of the different buildings in the university and colleges of Oxford to the poor rate for the city of Oxford. It was held that the University was exempt from rateability in respect of their occupation of the Bodleian Library, the divinity and other schools, the convocation houses, the Old Convocation House, the law schools, the Clarendon buildings, and the university galleries—such occupation being necessary for the purposes for which the university was erected, namely, the advancement of national religion and learning, and not being used for any *quasi* private purpose inconsistent with the public purposes of the university; that the same exemption applied to the Sheldonian Theatre (except a cellar under it, which was used by an individual as a place of deposit for his books)—to the Ashmolean Museum (except the lower part of it, which was fitted up and used as a residence by the reader in mineralogy)—and to the Taylorian Institution (except so much of it as was used as a residence for the librarian, not necessarily, but for his own convenience): that the university was exempt from rateability in respect of the botanic garden; but that this exemption did not apply to the residence of the professor of botany, of the porter, and of the gardener, and that the colleges were liable to be rated in respect of the college chapels and college libraries (*Re Oxford University and City of Oxford Poor Rate*, 8 E. & B. 184; 27 L. J. M. C. 33; 3 Jur. (N. S.) 1249; 5 W. R. 872).

As to the present system of rating university buildings in Oxford to the poor rate, see *Oxford University, Chancellor, &c., of* v. *Oxford, Mayor, &c., of*, in the *Times* newspaper, August 1st, 1894. A local Act of 1890 gives the corporation power to value and rate the university buildings.

In the case of Edinburgh University, it was held in 1868 by the House of Lords, that its property was neither held by the Crown nor for the Crown, and was therefore rateable as any other real property (*Greig* v. *Edinburgh University*, L. R. 1 H. L. (Sc.) 348).

WATERWORKS.

General rateability.

Waterworks are liable to be rated to the poor, as being land which is rendered additionally valuable by the works attached to it; and

POOR RATE—PROPERTY RATEABLE—*Waterworks—continued.*

Sect. 1.

Note.

the proprietors are liable to be rated for them, not only in the parish where their reservoir is, but in each parish through which their pipes are laid down. The New River Company were seised of and occupied a close in Amwell, in which there was a spring, from which they obtained water for the supply of the city of Westminster; the land without the spring was of the annual value of 5*l.*, but with the spring it was of the value of 300*l.* a year, and it was upon this latter calculation they were rated. The court held that the company were properly rated; the spring was a part of the land of which the company were owners and occupiers, and both being of the value of 300*l.* a year, they were rightly rated at that amount (*Rex* v. *New River Co.*, 1 M. & S. 503).

Commissioners, under a local Act, constructed a reservoir in the township of Kentmere by erecting a mound across a stream which supplied certain mills with water, for the purpose of affording a more regular supply to the mills, and of cleansing the stream and promoting the health of the persons residing on its banks; and for this they were empowered to levy rates upon the millowners. The court held that the commissioners were rateable for the reservoir in Kentmere, although none of the mills supplied with water were situate in that township but were in other townships lower down the stream (*Reg.* v. *Kentmere*, 17 Q. B. 551; 21 L. J. M. C. 13; 16 Jur. 265).

Pipes carried under highways.

The fact that, in consequence of the licence granted by Act of Parliament, the pipes of a waterworks company are carried under public highways which were not and are not rateable, does not exonerate the company from liability to be rated in respect of the occupation of the soil under such highways (*Rex* v. *Rochdale Waterworks Co.*, 1 M. & S. 634).

Licence to lay pipes.

A mere liberty granted by Act of Parliament to a water company to break up the ground and lay down pipes is not liable to be rated (*Rex* v. *Manchester Waterworks Co.*, 1 B. & C. 630; 3 D. & R. 20).

Tenancy at will: surface of land already rated.

The Chelsea Waterworks Company were rated to the poor for their basin or reservoir in the Green Park, and the pipes laid down from it through the park and through the streets. They contended they were not liable as respected the pipes laid down in the park, because the ranger of the park was already rated for the herbage of the park generally, including the place where the pipes were laid; and as to the basin or reservoir, that they were only tenants at will under a grant of Geo. I., which prescribed that the company's works there should be done under the inspection and direction of the ranger; and that consequently the grant had not the effect of giving them the exclusive occupation, and therefore they were not rateable for this basin or reservoir. The court held that the company were clearly liable to be rated in respect of the pipes in Green Park; the ranger was only rated for the herbage, which did not prevent others from being rated for the soil beneath, who had the exclusive use and possession of it; and as to the basin or reservoir, they were liable to be rated for it for the same reason: they had, in fact, the exclusive occupation of the land where their reservoir was constructed, and in both cases had the exclusive right in a portion of the soil, though for a limited purpose only, and as to their holding it at will merely, that made no difference, a tenant at will being, until the will is determined, the occupier of the land (*Rex* v. *Chelsea*

POOR RATE—PROPERTY RATEABLE—*Waterworks—continued.*

Sect. 1.

Note.
Works in different parishes.

Waterworks Co., 5 B. & Ad. 156; 2 N. & M. 767; 2 L. J. M. C. 98; see *R.* v. *Cambridge Gas Co.*, 8 A. & E. 73; 7 L. J. M. C. 50).

The corporation of Bath, being the owners of certain springs of water in Lyndcomb, built reservoirs there, and thence conducted the water by pipes to Bath, for the supply of the inhabitants, and by Act of Parliament they were authorized to break up the streets, &c., for the purpose of laying their pipes; the corporation made a profit of 600*l.* a year from the rates received from the water, 50*l.* of which were collected in Lyndcomb, and 550*l.* in Bath. Being rated to the poor in Lyndcomb, upon the whole 600*l.*, the corporation appealed; and the court held that, although rateable in Lyndcomb in respect of the land occupied by them for their reservoirs, they were not rateable there for the whole of their profits, because they occupied land in other parishes by their pipes, in which parishes they were also rateable for a portion of their profits (*Rex* v. *Bath, Mayor, &c., of*, 14 East, 609).

The works of a water company were situate in several parishes, and consisted partly of works directly productive of profit (as service-pipes, which deliver the water to the consumers), and partly of works indirectly productive of profit (as buildings, mains, reservoirs, &c., which assist in bringing the water to the service-pipes); and the rateable value of the whole, calculated according to the net estimated rental, was 30,800*l.* The court held that the proper mode of apportioning the rate in the different parishes was to assess that portion which was indirectly productive of profit in the ordinary way, by valuing the land and the buildings and the fixtures thereon; this sum being deducted from the whole, the residue should then be apportioned among the parishes where the works directly productive were situate, in the ratio of the rent reasonably to be expected for them, if the parts situate in each parish were let separately; and that this ratio could be correctly ascertained by the ratio of the net profits derived in each of the several parishes, or even by the gross receipts, if the total of the expenses were common to the whole of the apparatus (*Reg.* v. *Mile End Old Town*, 10 Q. B. 208; 16 L. J. M. C. 185; 11 Jur. 985), and this method of assessment has been expressly approved by the Court of Appeal (*Reg.* v. *South Staffordshire Waterworks Co.*, 16 Q. B. D. 359; 55 L. J. M. C. 88; 54 L. T. 782; 34 W. R. 242; 50 J. P. 20).

A waterworks company had reservoirs in the parish of Putney, and pipes conveying the water to and from the same, but no water was sold in the parish. *Held* that it was not a correct principle of rateability to the poor rate to take the rateable value of the whole apparatus in the several parishes in which it was situated, and then sub-divide the amount among the several parishes according to the quantity of land occupied by the apparatus in each parish (*Reg.* or *Chelsea Waterworks Co.* v. *Putney*, 3 E. & E. 108; 29 L. J. M. C. 236; 2 L. T. (N. S.) 663; 6 Jur. (N. S.) 940; 24 J. P. 486).

The West Middlesex Waterworks Company were empowered to construct works, and lay mains and pipes under certain highways, and supply certain parishes with water. They constructed their works, including an engine-house in Hampton, which was not one of those parishes, and laid a main under a highway in Hampton. They derived no direct profit in Hampton, and they had neither freehold nor leasehold interest in the soil under the highway

POOR RATE—PROPERTY RATEABLE—*Waterworks—continued.*

Sect. 1.

Note.

occupied by the main. Being rated in Hampton for their engine-house and works, and for that part of their main which ran under the highway in that parish, the question was whether they were rateable there for their main at all, as they claimed no right whatever in the soil, and if rateable for it, on what principle were they to be rated for that and for the engine-house and works. The court held that they were rateable for their main, being the occupiers of that space in the soil which the main filled; and that they ought to be rated for that and for the engine-house, &c., not as participants in the profits of which the company made generally, but, according to the Parochial Assessment Act, at what a tenant would be willing to give for them annually, to be used for the same purposes as the company used them (*Reg.* or *Hampton* v. *West Middlesex Waterworks Co.*, 1 E. & E. 716; 28 L. J. M. C. 135; 5 Jur. (N. S.) 1159; 32 L. T. 388; 23 J. P. 164).

Public purposes and restrictions on profits.

The establishment of waterworks is not such a public purpose as to exempt the proprietors from rateability, although the proprietors are a public body and derive no profit from the undertaking (*Reg.* v. *Longwood*, 13 Q. B. 116; 18 L. J. M. C. 65; *Reg.* v. *Longwood*, 21 L. J. M. C. 215; *Reg.* v. *Manchester, Mayor, &c., of*, 21 L. J. M. C. 160).

The corporation of Liverpool were possessed of certain waterworks, partly in Liverpool and partly in an adjoining township, in trust for the supply of water for public and domestic purposes; they had no beneficial interest in these works, they were merely trustees; the expenses were defrayed by a rate, the produce of which was carried to an account, "The Liverpool water account," and the local Act upon the subject provided for the reduction of the rates, so that no more should be raised than might be necessary to meet the expenditure on the water account: the corporation contended that they were not liable to be rated for these works, as they had no beneficial interest in them, and they were prohibited by the local Act from making any profit or deriving any benefit from them. *Held* that although the corporation took no benefit from these works, yet as they occupied as trustees for the beneficial interest of others, they were rateable (*Liverpool, Mayor, &c., of* v. *West Derby*, 6 E. & B. 704; 25 L. J. M. C. 112; 2 Jur. (N. S.) 1002; 20 J. P. 661).

The local board of health for Worcester, in pursuance of the Public Health Act, 1848, established waterworks, and, in order to benefit the inhabitants of the district, supplied water on a scale of charges so low that far less profit was made than would have accrued to a company carrying on the works as a commercial undertaking. Being assessed upon an amount which might have been earned by a trading company carrying on the works for their own benefit, the local board claimed to be assessed at a rateable value based upon the actual profit earned by them; and it was held that as under the provisions of the Public Health Act, 1848, they could not make rates of an amount more than sufficient to enable them to maintain the waterworks, they could not be assessed at any other value than that calculated upon the profits which they actually earned (*Worcester, Mayor, &c., of* v. *Droitwich*, 2 Ex. D. 493; 46 L. J. M. C. 241; 36 L. T. (N. S.) 186; 25 W. R. 336; 41 J. P. 355; following *Liverpool, Mayor, &c., of* v. *Wavertree*, 2 Ex. D. p. 55 n.; 39 J. P. 101, which was expressly approved by the House

POOR RATE—PROPERTY RATEABLE—*Waterworks—continued.*

Sect. 1.

Note.

of Lords in *London County Council* v. *Lambeth*, [1897] A. C. 625; 66 L. J. Q. B. 806; 76 L. T. 795). And where by the statute no profit at all could be made by the local authority, the rateable value of the works, &c., was held to be *nil* (*Peterborough Corporation* v. *Stamford Union*, 31 W. R. 949).

"There is no doubt a certain class of cases in which the amount of profit which can be earned by the occupation of a hereditament is very material in ascertaining the sum at which it should be assessed. In the case of gasworks, waterworks and other industrial undertakings, where a hereditament is enhanced in value by its connection with a profit-bearing undertaking, the profits earned and the share of those profits attributable to any particular hereditament have to be taken into account, and in such cases as these, any restrictions which the law has imposed upon the profit-bearing capacity of the undertaking must, of course, be considered" (*London County Council* v. *Erith*, [1893] A. C. 562; 63 L. J. M. C. 9; 69 L. T. 725; 42 W. R. 330; 57 J. P. 821, *per* Lord Herschell, L.C.).

Subventions from rates.

By the Merthyr Tydfil Water Act, 1858 (21 & 22 Vict. c. xii.), a local board of health were authorized to acquire waterworks, and all sums paid out of the general district rate under the Act were to be repaid out of any balance standing to the credit of the waterworks account, after application to the objects to which moneys carried to that account were, under the provisions of the Act, to be primarily applied, and all moneys received under the Act (other than money out of the district rate or raised on mortgage) were to be applied *inter alia* in repaying any moneys advanced out of the general district rate, under the powers and for the purposes of the Act. In assessing the local board to the poor rate in respect of the waterworks, a sum paid out of the general district rate for the purposes of the Act was included in the rateable value of the waterworks. *Held* that the sum ought not to be included in the assessment, for it was received on terms as to repayment which prevented it from being available as an item of gross profit (*Merthyr Tydfil Local Board* v. *Merthyr Tydfil Assessment Committee*, [1891] 1 Q. B. 186; 60 L. J. M. C. 42; 63 L. T. 647; 39 W. R. 255; 55 J. P. 294).

A local board were empowered by their special Act to levy a public water rate, but it was provided that they should not levy any higher rate than might be required to discharge so much of the expenses of maintaining the waterworks, &c., as the amount of the water rents and other payments for a supply of water should not be sufficient to discharge. It was held that in assessing the local board to the poor rate in respect of their reservoirs, pipes, &c., the amount collected by means of the water rate ought to be taken into account (*Dewsbury Waterworks Board* v. *Penistone Union*, 17 Q. B. D. 384; 55 L. J. M. C. 121; 51 L. T. 592; 34 W. R. 622; 50 J. P. 644).

Works in excess of existing requirements.

A company had works extending over many parishes. All the works were in use for the supply of their customers, but they were in excess of the existing requirements of the company, and were created for and adapted to an increased supply in future years. In the calculation by which the rateable value of the mains and service-pipes in one of the parishes supplied was to be arrived at, it was held that, as the whole of the works were being used for the

POOR RATE—PROPERTY RATEABLE—*Waterworks—continued.*

Sect. 1.

Note.

purpose of distributing water as a source of profit, the whole of the capital expenditure must be taken into account, and not merely so much as would have sufficed to provide the existing supply (*Reg.* v. *South Staffordshire Waterworks Co.*, 16 Q. B. D. 359; 55 L. J. M. C. 88; 54 L. T. 782; 34 W. R. 242; 50 J. P. 20).

Deductions.

In assessing the rateable value of waterworks in a parish a percentage on the cost of construction may be allowed for wear and tear, as the probable average annual cost of repairs (*Dewsbury Waterworks Board* v. *Penistone Union*, 16 Q. B. D. 585; affirmed in C. A. on another point, 17 Q. B. D. 384, *supra*, p. 101).

The deductions to be made in respect of the rates which the hypothetical tenant would have to pay is the amount that would be payable on the sum at which the works ought to be assessed, and not necessarily the rates based on the existing valuation list (*Reg.* v. *South Staffordshire Waterworks Co.*, 16 Q. B. D. 359, *supra*).

A company is not entitled to any deduction in respect of payments of interest on borrowed money, nor of the sums derived from water rates on mills without the parish (*Reg.* v. *Holme Reservoirs*, 28 J. P. 165).

The proper allowance for tenants' profits and interest is entirely a question of fact (*Sheffield United Gas Light Co.* v. *Sheffield*, 4 B. & S. 135; 32 L. J. M. C. 169; 9 Jur. (N. S.) 623; 11 W. R. 1104).

Rateable value; cost of construction.

The corporation of Liverpool were empowered by Act of Parliament to construct a reservoir and other works in a parish in Wales for the purposes of the supply of water to Liverpool. The construction of the reservoir and works involved the submersion of the sites of the parish church, vicarage and schools, and likewise the stopping up and diversion of certain roads. The Act required the corporation to provide sites for and erect a new church, vicarage and schools in substitution for those which would be submerged, and to make certain new roads and bridges which were necessary for the purposes of the before-mentioned diversion. The corporation carried out the works in conformity with the Act, provided the requisite new church, vicarage and schools, and made the necessary new roads and bridges. The corporation having been rated to a poor rate in respect of the reservoir and works appealed to the quarter sessions against the rate. The sessions decided that, in estimating the capital value of the reservoir and works for the purpose of arriving at the rateable value, the amounts expended by the corporation in providing the new church, vicarage and schools, and making the new roads and bridges, ought to be included as being part of the capital cost of the works. *Held* that there was no error in law on the part of the sessions, and that their decision must be affirmed (*Liverpool Corporation* v. *Llanfyllin Union*, [1899] 2 Q. B. 14).

Occupiers of mills supplied by company.

A waterworks company were empowered by their Act to let sites for erecting mills on the banks of their water-course, and also to contract to supply water power to the mills to be so erected, at such annual rents as might be agreed upon. In respect of the annual income derived from this source, the company were rated as occupiers and not the millowners. *Held* that the assessment was rightly made (*Greenock Police Trustees* v. *Shaw's Water Co.*, 9 Jur. (N. S.) 1207; 9 L. T. (N. S.) 182).

POOR RATE—PROPERTY RATEABLE—*Waterworks—continued.*

Sect. 1.

Note.

Rateability of reservoirs.

An artificial reservoir constructed by a waterworks company for the purpose of storing water is "land covered with water within the meaning of sect. 211 of the Public Health Act, 1875, and is therefore rateable to general district rates in the proportion of one-fourth part only of the net annual value thereof" (*Southwark and Vauxhall Water Co.* v. *Hampton*, [1899] 1 Q. B. 273; approving *Reg.* v. *Birmingham Waterworks Co.*, 1 B. & S. 84; 4 L. T. (N. S.) 242; and *East London Waterworks Co.* v. *Leyton Sewer Authority*, L. R. 6 Q. B. 669; 40 L. J. M. C. 190; 20 W. R. 95; which are to a similar effect).

WAYS AND WAY-LEAVES.

Not rateable *per se*, but rateable if enjoyed with occupation of the land.

A mere right of way, even an exclusive right of way, is not *per se* rateable; but if the soil of the way be vested in the person who has the right of way, then such person is rateable for the soil.

The dean and chapter of Durham were owners of certain lands lying between Long Benton Colliery and the river Tyne, which they had let to tenants, but reserved to themselves the power of making or granting waggon-ways across it, making compensation to the tenants for the same; the defendant, who was the occupier of the Long Benton Colliery, agreed with the dean and chapter for a liberty to lay down a railway across this land to the Tyne, at an annual rent of 200*l.*, he making compensation to the tenants of the land to the amount of 17*l.* a year; and he accordingly made the railway and fenced and inclosed it in such a manner that no other person could make use of it; the tenants were still rated to the poor rate in Wallsend to the same extent as they were before the making of the railway; the defendant being rated for this rail-road, appealed, and contended that this was a mere right of way, an easement, for which he was not liable to be rated. The tenants who had the soil were already rated for it, and if the defendant were also to be rated, the land would be rated twice. *Held* that it was not for the court to inquire into the defendant's title, or whether he had a mere right of way from the dean and chapter or not. It was sufficient to know that he was in the actual and exclusive possession of the land on which this railroad was made; he was therefore the occupier of it, and as such was rateable for it (*Rex* v. *Bell*, 7 T. R. 598).

The corporation of London were owners of an ancient towing-path on the banks of the Thames, and charged certain tolls on barges towed along the path; the herbage and pasture of this towing-path were rented from them by one Spencer, who was separately rated for them. The court held that the corporation should also be rated for the towing-path; Spencer having merely the herbage and pasture, and not the soil, the corporation might maintain trespass for any injury to the land; they must therefore be deemed owners of it, and being occupiers they were clearly rateable for it by the statute of Elizabeth (*Rex* v. *London, Mayor, &c., of*, 4 T. R. 21).

The defendant having a colliery at Wallbridge, agreed with the tenants of land lying between it and the river Wear, for a way-leave across their lands, and a permission to make a waggon-way from the colliery to the Wear. Instead, however, of making that waggon-way, he, with the permission of the tenants, agreed with another person, who had already made a railway in the same

Sect. 2.

Clause relating to poor parishes.

II. And be it also enacted, that if the said justices of peace do perceive that the inhabitants of any parish are not able to levy among themselves sufficient sums of money for the purposes aforesaid, that then the said two justices shall and may tax, rate, and assess as aforesaid any other of other parishes, or out of any parish within the hundred where the said parish is, to pay such sum and sums of money to the churchwardens and overseers of the said poor parish for the said purposes as the said justices shall think fit, according to the intent of this law; and if the said hundred shall not be thought to the said justices able and fit to relieve the said several parishes not able to provide for themselves as aforesaid, then the justices of peace at their general quarter sessions, or the greater number of them, shall rate and assess as aforesaid any other of other parishes, or out of any parish within the said county, for the purposes aforesaid, as in their discretion shall seem fit.

POOR RATE—PROPERTY RATEABLE—*Ways and Way-leaves—continued.*

Sect. 1.

Note.

direction, for the use of the way, upon paying him so much per ton for the coals conveyed by it. The defendant being rated for this railroad, appealed; and the court held that he was not rateable for it. He was not the occupier of the land, he had but a mere right of way over it, granted to him by the owner of the railroad, a mere easement, which was not the subject of a rate (*Rex* v. *Joliffe*, 2 T. R. 90).

Land may be occupied in the enjoyment of an easement so as to make the occupier liable to poor rate, although the occupation is exclusive only for certain purposes, and although the owner of the soil may have reserved rights of possession subordinate to the paramount rights he has granted. The test of rateability is not whether the rights granted are corporeal or incorporeal, but whether there is occupation, which is a question of fact. Pursuant to statute, a landowner granted to a drainage company the exclusive right to drain through a tunnel and a water-course on his land, with a right to place works in the tunnel and water-course, and of making other tunnels in connection with it, but reserving to himself mineral and other rights. *Held* that the statute and grant gave the company not merely an easement but possession of the tunnels and water-course; that the rights reserved by the owner were subordinate to the rights granted to the company, and that the company were *de facto* in occupation of the tunnels and water-course, and rateable in respect thereof (*Holywell Union* v. *Halkyn Drainage Co.*, [1894] A. C. 117; 64 L. J. M. C. 113; 71 L. T. 818; 59 J. P. 566).

RATE IN AID.

Sect. 2.

Note.

As all parishes, except certain large parishes in urban districts, are now included in unions, and the cost of poor relief is chargeable to the common fund of the union, a rate in aid under this section has practically ceased to be a possibility. The following cases which have been decided under this section have therefore little more than an historical interest.

Sect. 3.

A remedy for levying the money assessed.

Distress for non-payment.

III. And that it shall be lawful as well for the present as subsequent churchwardens and overseers or any of them, by warrant from any two such justices of peace as is aforesaid, to levy as well the said sums of money, and all arrearages, of every one that shall refuse to contribute according as they shall be assessed, by distress and sale of the offenders' goods, as the sums of money or stock, which shall be behind upon any accompt to be made as aforesaid, rendering to the parties the overplus, *and in defect of such distress it shall be lawful for any such two justices of the peace to commit him or them to the*

RATE IN AID—*continued.*

Sect. 2.

Note.

If the parish to be rated be within the same hundred with the parish to be aided, the rate must be by two or more justices out of sessions; and their order must show that both parishes are within the same hundred (*Boroughfen* v. *St. John's*, Fol. 27; 1 Bott., 6th ed., pl. 402, 405; *St. Benedict* v. *St. Peter's*, Fol. 43; 1 Bott., 6th ed., pl. 409, 416); or within some division in the nature of a hundred (*Rex* v. *Milland, Tithing of*, 1 Burr. 576). The sessions have no original jurisdiction to make the order, where the parishes are thus within the same hundred (*Rex* v. *Eastchurch*, 1 Bott., 6th ed., pl. 410, *per* Holt, C.J.; *Rex* v. *Griesley*, Set. & Rem. 259). If, on the other hand, the parishes be not within the same hundred, but within the same county (and they must in all cases be within the same county) (*Rex* v. *Holbeche*, 4 T. R. 778), the rate must be made by the justices at sessions, and it is not necessary in such a rate to show that any previous application had been made to justices out of sessions to rate a parish within the hundred (*Rex* v. *Percival*, 1 Str. 56). This rate also must be made by the justices, and not, as in ordinary cases, by the churchwardens and overseers; and where justices by their order directed the churchwardens and overseers of a parish to assess, raise and levy a sum towards the maintenance of the poor of another parish the court quashed the order (*St. Mary's* v. *St. Peter and Paul's in Marlborough*, 2 Str. 1114).

The rate may be upon one vill, in aid of another vill in the same parish (*Anon.*, 1 Bott., 6th ed., pl. 415). It may even be upon certain inhabitants of another parish, &c., without rating the whole parish, &c. (*Rex* v. *Knightley*, Comb. 309; *Rex* v. *Boroughfen*, Fol. 29). It must be to raise a sum certain, and not, as in ordinary cases, a rate merely at so much in the pound, without stating the gross amount (*Rex* v. *Telscombe*, 1 Str. 314; *St. Mary's* v. *St. Peter and Paul's in Marlborough*, 1 Str. 1114). It must appear to be a temporary and not a continuing charge (*Rex* v. *St. Mary's in Marlborough*, 2 Str. 700); but where it was for one gross sum for a year, and it was objected that the parish possibly would not require the aid for such a length of time, still the court refused to quash it (*Rex* v. *Knightley*, Comb. 309).

Sect. 3.

Note.

The words in italics are repealed by the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14), s. 2.

RECOVERY OF POOR RATES BY DISTRESS.

The procedure with regard to the recovery of poor rates by distress is now regulated by the Poor Relief Act, 1814 (54 Geo. 3, c. 170), s. 12; the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14); the

Sect. 3.

common gaol of the county, there to remain without bail or mainprise until payment of the said sum, arrearages, and stock;

Imprisonment of those that will not work.

and the said justices of peace, or any one of them, to send to the house of correction or common gaol such as shall not employ themselves to work, being appointed thereunto, as aforesaid; and also any such two justices of peace to commit to the said prison every one of the said churchwardens and

Refusers to accompt imprisoned.

overseers which shall refuse to accompt, there to remain without bail or mainprise until he have made a true accompt, and satisfied and paid so much as upon the said accompt shall be remaining in his hands.

RECOVERY OF POOR RATES BY DISTRESS.—*continued.*

Sect. 3. Note.

Poor Rates Recovery Act, 1862 (25 & 26 Vict. c. 82), and the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), ss. 39, 40. Some of the provisions of the Summary Jurisdiction Acts also apply to the proceedings (see S. J. A. 1884 (47 & 48 Vict. c. 43), s. 10, and notes thereto).

Costs.

Liability to pay the costs of proceedings for recovery of poor rates is imposed upon ratepayers by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 31.

Arrears.

By the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 11, succeeding overseers may levy arrears of poor rates to reimburse their predecessors all sums of money expended by them and allowed upon audit. And this power of collecting arrears and reimbursing preceding overseers is not confined to their immediate successors in office (*East Dean* v. *Everett*, 3 E. & E. 574; 30 L. J. M. C. 117; 7 Jur. (N. S.) 124; 3 L. T. (N. S.) 700; 9 W. R. 312).

No action lies to recover poor rates.

As there is a statutory remedy by distress warrant of justices, an action will not lie for recovery of a poor rate (*Stevens* v. *Evans*, 2 Burr. 1152; 1 W. Bl. 284; *Danby* v. *Watson*, 46 L. J. M. C. 179; 36 L. T. 412; 25 W. R. 464; 41 J. P. 406).

Whether a *mandamus* will lie to a corporation commanding them to pay a poor rate, *quære* (*Margate Pier Proprietors* v. *Hanam*, 3 B. & Ald. 220).

Demand.

The rate must be demanded of the party (*Rex* v. *Benn and Church*, 6 T. R. 198); but it is not necessary for the overseers to produce the rate-book itself on making the demand (*Rex* v. *Gloucestershire JJ.*, 24 J. P. 59).

By article 1 of the general order of June 14th, 1875: "In every parish in which there are more than thirty ratepayers on the rate-book, and in which there is no collector, and in every parish in which there is a collector, . . . a demand note shall be left with the ratepayer or at his address when the payment of any poor rate, either in one sum or by instalments, is first demanded."

The demand note need only be left when the first demand is made for payment of the rate, whether in one sum or in instalments (*Walton-on-the-Hill* v. *Jones*, [1893] 2 Q. B. 175; 62 L. J. M. C. 123; 69 L. T. 319; 42 W. R. 32; 57 J. P. 552).

The exact sum legally due must be demanded, and the distress be for that sum and no more; and one demand of several rates, some of which are bad, is not a valid demand of that portion which is good (*Hurrell* v. *Wink*, 8 Taunt. 369).

The rate need not be monied out for each individual; if it state

RECOVERY OF POOR RATES BY DISTRESS—*continued.*

Sect. 3.

Note.

the rate at so much per pound, so that the quota payable by each person can be ascertained by arithmetical computation, that is sufficient (*Binney, Ex parte*, 16 J. P. 22). If the amount includes a fraction of a farthing the ratepayer is not bound to pay the whole farthing (*Morton* v. *Brammer*, 8 C. B. (N. S.) 791; 29 L. J. M. C. 218).

Payment.

Payment to an assistant overseer by accepting a bill of exchange which the assistant overseer appropriated to his own use, and did not enter the receipt in the overseer's book, was held not to be a legal payment of the poor rate, and was no answer to a summons for non-payment (*Smith* v. *Barham*, 51 J. P. 581).

Overseers, &c.

A churchwarden or overseer is as liable to be distrained upon for the amount of his rate as any other person (*Skingley* v. *Surridge*, 12 L. J. M. C. 122).

Second distress.

If the value of the goods distrained does not prove sufficient to satisfy the amount due for poor rates, a second distress may be levied under the same warrant (*Hutchins* v. *Chambers*, 1 Burr. 579).

Commissioners authorized to distrain for arrears of drainage rates, seized as such distress a bean-stack standing on the land of L., a person liable for the arrears, and sold it under the distress. When the purchaser attempted to remove the stack, he was prevented by the violence of L., who assaulted him, and afterwards converted the stack to his own use. The purchase-money was not paid to the commissioners. *Held* that as the commissioners were prevented realizing the rates out of the distress by the unlawful conduct of L. himself, they were justified in distraining a second time upon the goods of L. for the same rates (*Lee* v. *Cooke*, 3 H. & M. 203; 22 L. J. Ex. 337; 22 J. P. 177).

Distraint on goods of person not named in rate.

A. was indicted for the rescue of a distress from a collector of poor's rate. The name of the defendant did not appear in the rate, and there was no name or description of the parties liable to the payment of the rate in the appropriate column, except the general words "tenants of common." The transcript of the rate-book, to which the collector's warrant was annexed, was similarly defective. It was not disputed that A. was the occupier of the lands, and might have been rated as such. *Held* that under the above warrant the collector had no power to distrain the defendant's goods, and that the indictment could not therefore be sustained (*Reg.* v. *Boyle*, 7 Cox, C. C. 428).

What may be distrained on.

Under a local Act it was held that the goods of a lodger might be distrained for rates due from the landlord (*Peppercorn* v. *Hofman*, 9 M. & W. 618; 11 L. J. Ex. 207).

Beasts of the plough are distrainable for poor rates, though there be other sufficient distress on the premises (*Hutchins* v. *Chambers*, 1 Burr. 579).

By the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 21 (2), wearing apparel and bedding of a person and his family, and to the value of five pounds the tools and implements of his trade, are not to be taken under a distress issued by a court of summary jurisdiction. This exemption applies to a distress for poor rates, as justices sitting to hear an application for the issue of a distress warrant for poor rates are a court of summary jurisdiction (*Fourth City Mutual Building Society* v. *East Ham*, [1892] 1 Q. B. 661; 56 J. P. 440).

RECOVERY OF POOR RATES BY DISTRESS—*continued.*

Sect. 3.

Note.

Discretionary powers of justices as to refusing warrant.

Conflicting decisions have been arrived at with regard to the powers of justices upon an application to issue a distress warrant for non-payment of rates, the question usually being whether their functions in such a case are ministerial or judicial (see *Harper* v. *Carr*, 7 T. R. 270). But a long series of authorities appear to establish this proposition, viz., that where the rate is good on the face of it, and the person summoned is the actual occupier of the rated property and the rate has not been appealed against, and the objection raised upon the application for a distress warrant is one that would be a ground of appeal against the rate, the justices are bound to issue their warrant.

Thus a *mandamus* was issued commanding justices to issue their warrant in the following cases, in which they had refused to do so, the rate being good on the face of it and unappealed against: Where it appeared at the hearing of the summons that there were substantial grounds for contending that the rate was retrospective, and therefore bad (*Reg.* v. *Kingston-on-Thames JJ.*, E. B. & E. 256; 27 L. J. M. C. 199; 4 Jur. (N. S.) 758); where the objection was that the occupation was not beneficial (*Reg.* v. *Bradshaw*, 2 E. & B. 836; 29 L. J. M. C. 176; *Reg.* v. *Sinclair*, 60 J. P. 551); where it appeared that property occupied by a railway company had been assessed by the description "offices and land with rails," but that in estimating the amount of the rate certain buildings had been treated as being in the occupation of the company, which were in fact not in their occupation (*Reg.* or *Manchester, Overseers* v. *Headlam*, 21 Q. B. D. 96; 57 L. J. M. C. 89; 52 J. P. 517, following *Crease* v. *Sawle*, 2 Q. B. 862); where the justices annexed a condition to the warrant that an indemnity should be given (*Reg.* v. *Middlesex JJ.*, 12 L. J. M. C. 36); and where they annexed the condition that the warrant should lie in the clerk's office for three months before it was put in execution (*Reg.* v. *Handsley*, 7 Q. B. D. 398); where a person occupied premises which were claimed by both of two adjoining parishes as being within the boundary of each, and he was accordingly rated to the poor rate of both parishes, and paid the rate to the overseers of one parish, and an application was made by the overseers of the other parish for a distress warrant for the amount at which he was also rated to such other parish (*R.* v. *Jefferson*, 48 J. P. 393); where a claim for exemption from rate was set up (*Bletchington* v. *Peyton*, 6 Dowl. & L. 288).

On the other hand, justices were held to be not justified in issuing their warrant, where the name of a person who occupied lands, for which he was rated in another parish, was inserted in the rate after the rate was made (*Rex* v. *Cardiganshire JJ.*, 1 H. & W. 274); where the person summoned, although described in the rate-book as the occupier of the premises rated, was there in fact as a mere caretaker; the ground of the justices' decision being that the rate-book was conclusive evidence of occupation, and that was held to be wrong (*Reg.* v. *Simmonds*, 62 L. J. M. C. 106; 57 J. P. 324). And where the objection taken was that the persons rated were owners, and not occupiers, and therefore ought not to have been rated, it was held that the justices ought to have inquired whether there existed any statutory power whereby an owner could be rated to the poor rate instead of an occupier, and, in the circumstances of the case, ought to have refused to issue a warrant (*Fourth City Mutual Building Society* v. *East Ham*, [1892] 1 Q. B. 661; 56 J. P.

Sect. 4.

Binding of children apprentices.

IV. And be it further enacted, that it shall be lawful for the said churchwardens and overseers, or the greater part of them, by the assent of any two justices of the peace as aforesaid, to bind any such children as aforesaid to be apprentices, *where they shall see convenient*, till such man-child shall come to the age of four and twenty years, and such woman-child to the age of one and twenty years, or the time of her marriage: the same to be as effectual to all purposes, as if such child were of full age, and by indenture of covenant bound him or herself.

Building of houses on the waste for the poor to inhabit.

V. And to the intent that necessary places of habitation may more conveniently be provided for such poor impotent people, be it enacted by the authority aforesaid, that it shall

---

RECOVERY OF POOR RATES BY DISTRESS—*continued.*

Sect. 3.

Note.

Replevin.

440; *R.* v. *London, Lord Mayor of*, 57 L. T. 491; *R.* v. *Thornton*, 8 T. L. R. 555).

A distress for a poor rate for lands not in the occupation of the plaintiff may be replevied notwithstanding the sessions on appeal have confirmed the rate; the determining that a man may be assessed on what he does not occupy being an excess of jurisdiction (*Milward* v. *Caffin*, 2 W. Bl. 1330; S. P. *Rhymney Rail. Co.* v. *Price*, 16 L. T. (N. S.) 394).

PENALTY FOR REFUSING TO WORK.

For punishment for refusing to perform tasks of work set in a workhouse, see the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 5; for tasks of work to be done by casual paupers, see the Pauper Inmates Discharge and Regulation Act, 1871 (34 & 35 Vict. c. 108), ss. 7, 8; for tasks of work to be done by outdoor paupers, see the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 15.

PENALTY ON OVERSEERS FOR NOT ACCOUNTING.

See the Poor Relief Act, 1743 (17 Geo. 2, c. 38), ss. 1, 2, and cases there cited.

Sect. 4.

Note.

So much of this section as compels any person to receive any poor child as an apprentice is repealed by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 13. By sect. 12 of that Act the powers and duties of churchwardens and overseers with regard to the apprenticing of poor children were transferred to the guardians, and the assent of the justices to the indentures was rendered unnecessary. The powers possessed by guardians and the incidents of the apprenticeship now depend upon various statutes and upon the General Orders of July 24th, 1847, and February 15th, 1898. The statutes relating to the matter which are not implicitly repealed by sects. 12 and 13 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), will be found in the note to sect. 12 of that Act, *post*.

Sect. 5.

Note.

The statute 31 Eliz. c. 7 was repealed by 15 Geo. 3, c. 32. The unrepealed statutes which have not become obsolete from being temporary in their nature (such as 1 & 2 Vict. c. 25) relative to the

Sect. 5.

and may be lawful for the said churchwardens and overseers, or the greater part of them, by the leave of the lord or lords of the manor whereof any waste or common within their parish is or shall be parcel, and upon agreement before with him or them made in writing under the hands and seals of the said lord or lords, or otherwise, according to any order to be set down by the justices of peace of the said county at their general quarter sessions, or the greater part of them, by like leave and agreement of the said lord or lords, in writing under his or their hands and seals, to erect, build, and set up, in fit and convenient places of habitation in such waste or common, at the general charges of the parish, or otherwise of the hundred or county as aforesaid, to be taxed, rated, and gathered in manner before expressed, convenient houses of dwelling for the said impotent poor, and also to place inmates or more families than one in one cottage or house; one Act made in the thirty-first year of Her Majesty's reign, intituled *An Act against the erecting and maintaining of Cottages*, or anything therein contained, to the contrary notwithstanding; which cottages and places for inmates shall not at any time after be used or employed to or for any other habitation, but only for impotent and poor of the same parish, that shall be there placed from time to time by the churchwardens and overseers of the poor of the same parish, or the most part of them, upon the pains and forfeitures contained in the said former Act made in the said thirty-first year of Her Majesty's reign.

31 Eliz. c. 7.

Sect. 5. Note.

acquisition, sale and exchange of lands and buildings for the purposes of the poor or workhouses, are, in addition to the above section, as follows :—

Parish lands.

By the Poor Law Amendment Act, 1819 (59 Geo. 3, c. 12), s. 12, churchwardens and overseers were empowered to take into their hands any lands belonging to the parish, or to purchase or hire any suitable lands within or near the parish not exceeding twenty acres in extent for the purpose of setting to work therein the poor of the parish. By sect. 17, all lands purchased, taken or hired by the churchwardens and overseers, for the purposes of this Act, were to be conveyed and assured to them and held by them as a body corporate.

By the Poor Relief Act, 1831 (1 & 2 Will. 4, c. 42), s. 1, the amount of land which by the last-mentioned Act the churchwardens and overseers were empowered to hire or take was extended from twenty to fifty acres, and they were also empowered to inclose from any waste or common land in or near the parish, with the consent of the lord of the manor, and of the majority of persons having commonable rights thereon, land not exceeding fifty acres, to cultivate the same for, or to let the same to the poor of the parish.

Crown lands.

By the Crown Land Allotments Act, 1831 (1 & 2 Will. 4, c. 59), the powers given by the last-mentioned Act were made exercisable in respect of Crown forest or waste lands.

Sect. 5.

Note.

By the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 1, corporations and persons under disability were enabled to sell or exchange any lands or buildings for the purpose of the same being used as or converted into a workhouse, or of being used as the site of a workhouse, or of being occupied with a workhouse. By sect. 3, power was given to the guardians of any parish or union and to overseers of any parish not under a board of guardians, with the approval, and subject to the rules, orders and regulations of the Poor Law Commissioners [Local Government Board] [and with the consent of the majority of ratepayers of the parish,] to sell, exchange or let, or otherwise dispose of any workhouses or property belonging to such parish or union, and to apply the proceeds of any such sale towards the purchase or building of a workhouse to be erected or provided for such parish or union or otherwise for the benefit of the parish or union. By sect. 4, all the powers and authorities given to churchwardens and overseers with regard to the taking, purchase and inclosure of land by the above-mentioned statutes, 59 Geo. 3, c. 12; 1 & 2 Will. 4, c. 42; 1 & 2 Will. 4, c. 59, were thenceforth to be exercised, under the control and subject to the rules, orders and regulations of the Poor Law Commissioners [Local Government Board], by the guardians of the union, or by the overseers of any parish not under a board of guardians; and all such powers and authorities were extended to and might be exercised by such guardians and overseers for the purpose of the lands being used as the site of a workhouse or of being occupied with a workhouse or for any other purpose of the Poor Law Amendment Act, 1834.

Persons under disability.

Sale or exchange of property.

Powers of overseers to be exercised by guardians.

By the Union and Parish Property Act, 1837 (1 Vict. c. 50), the provisions of the above-mentioned Acts were made to apply to and comprise lands and buildings of copyhold or customary tenure, as well as to lands of freehold tenure, and power was given for enfranchising such copyholds acquired by guardians or overseers for the purposes of those Acts.

Copyhold lands.

By the Parish Property and Parish Debts Act, 1842 (5 & 6 Vict. c. 18), sect. 3 of 5 & 6 Will. 4, c. 69 was explained, and further provision was made for the sale by guardians of a union of workhouses and lands or other property in which several parishes were jointly interested and for the application of the proceeds.

Sale of property by guardians.

By the Workhouse Sites Act, 1857 (20 & 21 Vict. c. 13), provision was made for enabling guardians to acquire land or buildings for the purposes of a workhouse when the same belonged to an ecclesiastical corporation sole of unsound mind.

Lands belonging to ecclesiastical corporations.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 13, guardians may, with the approval of the Local Government Board, hire or take on lease, temporarily or for a term of years not exceeding five, any land or buildings for the purpose of the relief or employment of the poor and the use of the guardians or their officers, without any order of the said board under seal.

Temporary hire of buildings for workhouses.

By the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 8, the provision in 5 & 6 Will. 4, c. 69, s. 3, requiring the consent of a majority of the ratepayers of a parish for the sale or exchange by guardians of parish property was amended, and it was enacted that "no consent other than that of the Local Government Board shall be required to the sale or exchange or letting by the board of

Consent of Local Government Board.

Sect. 6.

A remedy for them which find themselves grieved with any tax.

VI. Provided always, that if any person or persons shall find themselves grieved with any sess or tax, or other act done by the said churchwardens, and other persons, or by the said justices of peace, that then it shall be lawful for the justices of peace, at their general quarter sessions, or the greater number of them, to take such order therein as to them shall be thought convenient; and the same to conclude and bind all the said parties.

Poor persons relieved by their parents or children.

VII. And be it further enacted, that the father and grandfather, and the mother and grandmother, and the children of every poor, old, blind, lame, and impotent person, or other poor person not able to work, being of a sufficient ability, shall at their own charges relieve and maintain every such poor person in that manner, and according to that rate, as by the justices of peace *of that county where such sufficient persons dwell, or the greater number of them, at their general quarter sessions, shall be assessed, upon pain that every one of them shall forfeit twenty shillings for every month which they shall fail therein.*

Sect. 5.

Note.

guardians of any separate parish of any workhouses, tenements, buildings, or land belonging to such parish."

Power of parish councils.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (d), the powers exercisable with the approval of the Local Government Board by the board of guardians for the poor law union comprising a rural parish in respect of the sale, exchange or letting of any parish property are transferred to the parish council of such parish.

By the Commons Act, 1899 (62 & 63 Vict. c. 30), s. 22, a grant of common under this section requires the consent of the Board of Agriculture.

Sect. 6.

Note.

APPEAL AGAINST OVERSEERS' ACCOUNTS.

The provision of the Poor Relief Act, 1743 (17 Geo. 2, s. 38), s. 4, giving an appeal against overseers' accounts to the quarter sessions after the allowance, is a repeal of so much of this section as applies to appeals in respect of such accounts (*Rex* v. *Worcestershire JJ.*, 5 M. & S. 457; *Rex* v. *Somersetshire JJ.*, 7 B. & C. 681 n.). And the provisions of 17 Geo. 2, c. 38, s. 4, with regard to such appeals, were in turn impliedly repealed by the provisions as to audit contained in the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32, 37.

APPEAL AGAINST POOR RATE.

The general right of appeal against a poor rate given by this section has been greatly modified by subsequent statutes. References to these statutes, and many of the decided cases on the subject, will be found in the notes to the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 4, and the Poor Rate Act, 1801 (41 Geo. 3, c. 23), s. 1, *post*.

APPEAL AGAINST ISSUE OF DISTRESS WARRANT.

No appeal lies against the mere issue of a warrant of distress for poor rates; an appeal lies only after distress has been levied (*Reg.* v. *London JJ.*, [1899] 1 Q. B. 532).

Sect. 7. Note.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 36, so much of this section as enables orders of maintenance to be made by the justices having jurisdiction in the place where the persons upon whom they are to be made dwell, and as prescribes the penalty for disobedience, is repealed, and such orders shall be made by the justices in petty sessions assembled at their usual place of meeting having jurisdiction in the union or parish to which the poor person in whose behalf the same shall be sought to be made shall be chargeable, and shall be enforced in the manner prescribed by 11 & 12 Vict. c. 43, for enforcing orders of justices.

By the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), s. 18, such orders may be made with costs; and under the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), ss. 6, 35, such orders will now be enforced as civil debts.

Application by guardians.

By the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 8, the guardians of a union (and the board of guardians of a parish, 39 & 40 Vict. c. 61, s. 25) are empowered to obtain orders of maintenance upon the relations liable under any statute in force, to maintain any poor person whose relief would be chargeable to the common fund of the union.

Disobedience to order.

Before the passing of the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), it was in the nature of a criminal offence to disobey an order of justices to maintain an indigent relative, and a bankrupt who disobeyed such order, and was imprisoned in default of distress, was held not entitled to his discharge by virtue of his having obtained a protection order under sect. 112 of the Bankruptcy Act, 1849 (*Bancroft* v. *Mitchell*, L. R. 2 Q. B. 549; 8 B. & S. 558; 38 L. J. Q. B. 257; 16 L. T. (N. S.) 558; 31 J. P. 693). Since, however, the repeal by 31 & 32 Vict. c. 122, s. 36, of the penalties imposed by 43 Eliz. c. 2, s. 7, for non-compliance with a maintenance order, neglect to make the payments ordered is no longer a criminal offence; and an order of justices for the payments due under a maintenance order cannot be enforced by imprisonment in default of distress, unless it be proved that the person in default has since the date of the order for payment had the means to pay the sum in respect of which he has made default (*In re Gamble*, [1899] 1 Q. B. 305; 68 L. J. Q. B. 195).

Continuing offence.

The offence of not maintaining children is a continuing offence, and the limitation of time in the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), s. 11, has no application thereto (*Ulverstone Union* v. *Park*, 53 J. P. 629).

What relations may be charged.

Under this statute it was held that a husband could not be ordered to maintain his wife (*Rex* v. *Davison*, 11 Mod. 268). But this decision was doubted in *Rex* v. *Kempson* (2 Str. 955). Now an order may be made on the husband to maintain his wife under the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 33.

It was ultimately decided, although the point was originally determined otherwise (*Draper* v. *Glenfield*, 2 Bulst. 345; *Reg.* v. *St. Botolph's, Aldgate*, 2 Bulst. 347; *City of Westminster* v. *Gerrard*, 2 Bulst. 346) that this statute extends only to natural relations, that is, to cases where there is a relationship by blood between the parties, and not to cases where the relationship is acquired by marriage (*Rex* v. *Munday*, 1 Str. 190; *Tubb* v. *Harrison*, 4 T. R. 118; *Cooper* v. *Martin*, 4 East, 39).

And therefore under the statute a man cannot be compelled to contribute to the maintenance of his wife's mother (*Rex* v. *Munday*,

Sect. 7.

Note.

1 Bott., 6th ed., pl. 448; 1 Str. 190; 2 Ld. Raym. 1454); or of his son's wife or widow (*Rex* v. *Kempson*, 1 Bott., 6th ed., pl. 450; S. C. nom. *Rex* v. *Dempson*, 2 Str. 955; *Rex* v. *Dunn*, 1 Bott., 6th ed., pl. 446; see *Walton* v. *Spark*, Skinn. 566); or of his own brother, a brother not being mentioned in the statute (see *Rex* v. *Smith*, 2 C. & P. 449).

Before the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), a husband was not bound to maintain the illegitimate children of his wife by another man (*City of Westminster* v. *Gerrard*, 2 Bulst. 346). As to her legitimate children, it was at one time holden that he was bound to provide for them (*Rex* v. *St. Botolph's, Aldgate*, Fol. 42; *Rex* v. *Clentham*, Foley, 39); but all the more modern cases were otherwise (see *Rex* v. *Benoire*, 1 Bott., 6th ed., pl. 449; *Case of Woodford and Lilburn*, 1 Bott., 6th ed., pl. 451; *Tubb* v. *Harrison*, 4 T. R. 118; *Cooper* v. *Martin*, 4 East, 76). By sect. 57 of the Act of 1834, however, a husband was made liable to maintain the children which his wife might have at the time of her marriage to him, whether the same were legitimate or illegitimate, until they should attain the age of sixteen, or until the death of the mother of such children.

A father may leave his children destitute, and the parish has no remedy against his executor (*Rawlins* v. *Goldfrap*, 5 Ves. 444).

Bastard children are not within the statute of Elizabeth (*City of Westminster* v. *Gerrard*, 2 Bulst. 346); but by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 71, the mother of an illegitimate child, so long as she is unmarried or a widow, is bound to maintain it until the age of sixteen.

There is no liability on the part of the personal representative of the deceased mother of an illegitimate child under sixteen years of age to pay out of the assets the expenses of such child's maintenance incurred after the mother's death (*Ruttinger* v. *Temple*, 4 B. & S. 491; 33 L. J. Q. B. 1; 9 Jur. (N. S.) 1239; 9 L. T. (N S.) 256).

A grandfather is liable to contribute to the maintenance of his grandchild, even although the father be alive, if the latter be unable to support him (*Rex* v. *Joyce*, 16 Vin. Abr. 423; 1 Bott., 6th ed., pl. 445; *Bevan* v. *M'Mahon*, 28 L. J. Mat. 127; 5 Jur. (N. S.) 686); or indeed whether the father be unable or not; and, therefore, in such an order against a grandfather, it is not necessary to state that the father is dead, or unable to support his children (*Rex* v. *Cornish*, 2 B. & Ad. 498); but a grandchild is not liable to maintain a grandfather (*Maund* v. *Mason*, L. R. 9 Q. B. 254; 43 L. J. M. C. 62; 29 L. T. (N. S.) 837; 38 J. P. 388).

Children are liable to maintain their mother though she has married a second husband; and their liability is not affected by 4 & 5 Will. 4, c. 76, s. 56, enacting that all relief to a wife shall be considered as given to her husband (*Arrowsmith* v. *Dickenson*, 20 Q. B. D. 252; 58 L. T. 632; 36 W. R. 507; 52 J. P. 308).

Before the Married Women's Property Act, 1882 (45 & 46 Vict. c. 75), it was held that a woman, whose husband was alive, was not liable to contribute to the support of her grandchildren, even though she had separate estate and was able independently of her husband to support them (*Coleman* v. *Birmingham Overseers*, 6 Q. B. D. 615; 50 L. J. M. C. 92; 44 L. T. 578; 29 W. R. 715; 45 J. P. 521); but now by sect. 21 of that Act, a married woman is subject to all such liabilities for the maintenance of her children and grandchildren, as

Sect. 7.

Note.

the husband is now by law subject to for the maintenance of *her* children and grandchildren.

The approval by guardians of a separation deed whereby the wife agrees to maintain the children of the marriage does not preclude the guardians from enforcing the liability of the husband in the event of the children becoming chargeable (*Westminster Union* v. *Buckle*, 61 J. P. 247).

Reputation of marriage.

When a man being summoned for the maintenance of his child of eight swore that he was not married to the child's mother, but it was proved that he had treated and called her his wife, the justices disbelieved him, and held that though there was no direct evidence of marriage, the reputation was sufficient. On appeal to the Queen's Bench, it was held that the justices were right (*Elliott* v. *Totnes Union*, 57 J. P. 151).

Non-access.

Upon a summons by guardians to show cause why a husband should not maintain his child the husband was held not admissible as a witness under the Evidence Act, 1869 (32 & 33 Vict. c. 68), s. 3, to prove non-access to his wife during the probable period of conception (*Nottingham Union, Guardians of*, v. *Tomkinson*, 43 J. P. 735).

Requisites of order.

The order must show that the person in whose favour it is made is "poor, old, blind, lame, or impotent, or other person not able to work," otherwise it will be bad, and the court will, upon application, quash it (*St. Andrew's Undershaft* v. *De Breta*, 1 Ld. Raym. 699). An order which merely stated that the pauper was "in a poor destitute condition" was holden insufficient; for that might have arisen from the party not choosing to work (*Rex* v. *Gulley*, Fol. 47). And the order must state this, by way of adjudication, and not merely as a recital of a complaint made (*Rex* v. *Litton*, 1 Bott., 6th ed., pl. 432; Set. & Rem. 83, pl. 111; *Rex* v. *Tripping*, 1 Bott., 6th ed., pl. 430; *Rex* v. *Pennoyer*, 1 Bott., 6th ed., pl. 433). It must also, it seems, adjudicate that the person is actually chargeable to the parish, &c. (*Rex* v. *Tripping*, 1 Bott., 6th ed., pl. 430).

It must also state that the person upon whom the order is made is of sufficient ability to make the payment ordered, otherwise it will be bad, and the court, upon application, will quash it (*Rex* v. *Halifax*, 1 Bott., 6th ed., pl. 429; Set. & Rem. 33, pl. 52; *Rex* v. *Dunn*, 1 Bott., 6th ed., pl. 446).

It must order a sum certain to be paid periodically, whilst the pauper continues unable to work, or until further order to the contrary, and not for a time certain; for perhaps in the meantime the pauper might be in a situation to support himself (*Jenkins' Case*, 2 Salk. 534; *Rex* v. *Gulley*, Fol. 47). An order which required a grandfather to pay to the overseers 6*s*. a week for the maintenance of his three grandchildren, for so long a time as they should be chargeable, was holden bad, for some of them might cease to be chargeable before the others; it should have required a distinct sum to be paid for each; besides, the word "chargeable" was objectionable, as not being equivalent to the words "not able to work" in the statute (*Reg.* v. *Martin*, 5 Q. B. 591; 13 L. J. M. C. 85; 8 Jur. 57). It seems that where an order is made to pay a certain sum weekly, such sum becomes due at the beginning of each week (*Rex* v. *Fearnley*, 1 T. R. at p. 320).

The justices cannot order the relation to take the pauper home and maintain him (*Rex* v. *Jones*, Fol. 53).

Sect. 8.

Officers of corporate towns have the authority of justices of peace.

Alderman of London.

VIII. And be it further hereby enacted, that the mayors, bailiffs, or other head officers of every town or place corporate and city within this realm, being justice or justices of peace, shall have the same authority by virtue of this Act, within the limits and precincts of their jurisdictions, as well out of sessions as at their sessions, if they hold any, as is herein limited, prescribed, and appointed to justices of peace of the county or any two or more of them, or to the justices of peace in their quarter sessions, to do and execute for all the uses and purposes in this Act prescribed, and no other justice or justices of peace to enter or meddle there; and that every alderman of the city of London within his ward shall and may do and execute in every respect so much as is appointed and allowed by this Act to be done and executed by one or two justices of peace of any county within this realm.

A parish extending into two counties or into two liberties.

IX. And be it also enacted, that if it shall happen any parish to extend itself into more counties than one, or part to lie within the liberties of any city, town, or place corporate,

---

Sect. 7.

Note.

The order must show that the justices making it have jurisdiction to make it, otherwise it will be bad (*Rex* v. *Reeve*, 2 Bulst. 344; *Rex* v. *Woodford*, 1 Bott., 6th ed., pl. 434; *Reg.* v. *Toke*, 8 A. & E. 227; 3 N. & P. 323); and therefore since the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 36, it should appear on the face of the order that the justices making it have jurisdiction in the union or parish to which the person on whose behalf it is made is chargeable.

Sect. 8.

Note.

Under this section the mayor of a borough had, until the passing of the statutes of 1849 noted below, the sole power of appointing overseers (*Reg.* v. *Preston*, 12 Q. B. 891; 18 L. J. M. C. 10; 3 N. S. C. 313; 13 Jur. 7).

By the Poor Law (Overseers) Act, 1849 (12 & 13 Vict. c. 8), justices of the peace having jurisdiction in cities and boroughs are to have the exclusive right of appointing overseers of the poor.

By the Poor Law (Justices' Jurisdiction) Act, 1849 (12 & 13 Vict. c. 64), the powers and authorities which by the statute may be exercised by justices for the county out of sessions may be exercised in a city or borough by two justices of the peace having jurisdiction within such city or borough.

By the Justices' Jurisdiction Act, 1852 (15 & 16 Vict. c. 38), the two statutes above cited were explained, and it was provided that all justices of the peace having jurisdiction to act in any matter arising in a city or borough should be competent to act therein in cases relating to the relief of the poor.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 33, the Local Government Board may by order confer on the council of a borough or urban district, or some other representative body within the borough or district, the appointment of overseers and assistant overseers, and the revocation of appointment of assistant overseers.

and part without, that then as well the justices of peace of every county, as also the head officers of such city, town, or place corporate, shall deal and intermeddle only in so much of the said parish as lieth within their liberties, and not any further; and every of them respectively within their several limits, wards, and jurisdictions, to execute the ordinances before mentioned, concerning the nomination of overseers, the consent to binding apprentices, the giving warrant to levy taxations unpaid, the taking accompt of churchwardens and overseers, and the committing to prison such as refuse to accompt, or deny to pay the arrearages due upon their accompts; and yet nevertheless the said churchwardens and overseers, or the most part of them of the said parishes that do extend into such several limits and jurisdictions, shall, without dividing themselves, duly execute their office in all places within the said parish in all things to them belonging, and shall duly exhibit and make one accompt before the said head officer of the town or place corporate, and one other before the said justices of peace, or any such two of them, as is aforesaid. Sect. 9.

X. And further be it enacted by the authority aforesaid, that if in any place within this realm there happen to be hereafter no such nomination of overseers yearly as is before appointed, that then every justice of peace of the county dwelling within the division where such default of nomination shall happen, and every mayor, alderman, and head officer of city, town, or place corporate where such default shall happen, shall lose and forfeit for every such default five pounds, to be employed towards the relief of the poor of the said parish or place corporate, and to be levied as aforesaid of their goods by warrant from the general sessions of the peace of the said county, or of the same city, town, or place corporate, if they keep sessions. The justices' forfeiture for not naming of overseers.

XI. And be it also enacted by the authority aforesaid, that all penalties and forfeitures before mentioned in this Act to be forfeited by any person or persons shall go and be employed to the use of the poor of the same parish, and towards a stock and How the forfeitures shall be levied and employed.

Overseers when appointed under this section act indiscriminately for the whole parish (*Rex* v. *Butler*, 1 Bott., 6th ed., pl. 22). Sect. 9. Note.

By the Poor Law (Overseers) Act, 1849 (12 & 13 Vict. c. 8), s. 2, so much of this Act as renders the mayor, &c., of any city, town, or place corporate liable, upon the default of the nomination of overseers therein, to lose and forfeit for every such default five pounds, is repealed except as to the city of London and to places where the appointment of overseers is governed by local Acts. Sect. 10. Note.

Sect. 11.

habitation for them, and other necessary uses and relief, as before in this Act are mentioned and expressed; and shall be levied by the said churchwardens and overseers, or one of them, by warrant from any two such justices of peace, or mayor, alderman, or head officer of city, town or place corporate respectively, within their several limits, by distress and sale thereof, as aforesaid; or in defect thereof it shall be lawful for any two such justices of peace, and the said aldermen and head officers within their several limits, to commit the offender to the said prison, there to remain without bail or mainprise till the said forfeitures shall be satisfied and paid.

The justices shall rate every parish to a weekly sum.

XII. And be it further enacted by the authority aforesaid, that the justices of peace of every county or place corporate, or the more part of them, in their general sessions to be holden next after the feast of Easter next, and so yearly as often as they shall think meet, shall rate every parish to such a weekly sum of money as they shall think convenient, so as no parish be rated above the sum of sixpence, nor under the sum of a halfpenny, weekly to be paid, and so as the total sum of each taxation of the parishes in every county amount not above the rate of twopence for every parish within the said county; which sums so taxed shall be yearly assessed by the agreement of the parishioners within themselves, or, in default thereof, by the churchwardens and petty constables of the same parish, or the more part of them; or, in default of their agreement, by the order of such justice or justices of peace as shall dwell in the same parish, or (if none be there dwelling) in the parts next adjoining; and if any person shall neglect or refuse to pay any such portion of money so taxed, it shall be lawful for the said churchwardens and constables, or any of them, or, in their default, for any justice of peace of the said limit, to levy the same by distress and sale of the goods of the party so refusing or neglecting, rendering to the party the overplus; and in default of such distress it shall be lawful to any justice of that limit to commit such person to the said prison, there to abide without bail or mainprise till he have paid the same.

Penalty for refusing to pay money taxed.

[Repealed by the S. L. R. Act, 1863.]

Relief for the prisoners of the King's Bench, Marshalsea, and hospitals.

XIII. And be it also enacted, that the said justices of the peace at their general quarter sessions to be holden at the time of such taxation shall set down what competent sums of money shall be sent quarterly out of every county or place corporate, for the relief of the poor prisoners of the King's Bench and Marshalsea, and also of such hospitals and almshouses as shall be in the said county, and what sums of money shall be sent to every one of the said hospitals and almshouses, so as there be sent out of every county yearly twenty shillings at the least to each of the said prisons of the King's Bench and Marshalsea; which sums rateably to be assessed upon every parish the churchwardens of every parish

Sect. 13.

shall truly correct and pay over to the high constables in whose division such parish shall be situate, from time to time, quarterly, ten days before the end of every quarter; and every such constable at every such quarter sessions in such county shall pay over the same to two such treasurers, or to one of them, as shall by the more part of the justices of peace of the county be elected to be the said treasurers, to be chosen by the justices of peace of the said county, city, or town, or place corporate, or of others which were sessed and taxed at five pounds lands or ten pounds goods at the least, at the tax of subsidy next before the time of the said election to be made; and the said treasurers so elected to continue for the space of one whole year in their office, and then to give up their charge, with a due accompt of their receipts and disbursements, at the quarter sessions to be holden next after the feast of Easter in every year, to such others as shall from year to year in form aforesaid successively be elected treasurers for the said county, city, town, or place corporate; which said treasurers, or one of them, shall pay over the same to the Lord Chief Justice of England and Knight Marshal for the time being, equally to be divided to the use aforesaid, taking their acquittance for the same, or in default of the said Chief Justice to the next ancientest justice of the King's Bench as aforesaid; and if any churchwarden or high constable, or his executors or administrators, shall fail to make payment in form above specified, then every churchwarden, his executors or administrators, so offending, shall forfeit for every time the sum of ten shillings, and every high constable, his executors or administrators, shall forfeit for every time the sum of twenty shillings, the same forfeitures, together with the sums behind, to be levied by the said treasurer and treasurers by way of distress and sale of goods as aforesaid, in form aforesaid, and by them to be employed towards the charitable uses comprised in this Act.

Treasurers to be chosen annually.

The money to be paid to the Lord Chief Justice of England and Knight Marshal.

The forfeitures of the churchwardens or high constables offending.

[Repealed by the S. L. R. Act, 1863.]

XIV. And be it further enacted, that all the surplusage of money which shall be remaining in the said stock of any county shall, by discretion of the more part of the justices of peace in their quarter sessions, be ordered, distributed, and bestowed for the relief of the poor hospitals of that county, and of those that shall sustain losses by fire, water, the sea, or other casualties, and to such other charitable purposes, for the relief of the poor, as to the more part of the said justices of peace shall seem convenient.

How the surplusage shall be bestowed.

[Repealed by the S. L. R. Act, 1863.]

XV. And be it further enacted, that if any treasurer elected shall wilfully refuse to take upon him the said office of treasurership, or refuse to distribute and give relief, or to accompt, according to such form as shall be appointed by the more part of the said justices of peace, that then it shall be lawful for the justices of peace in their quarter sessions, or in their default for

Penalty for refusing to be treasurer, to give relief, or accompt.

Sect. 15. *the justices of assize at the assizes to be holden in the same county, to fine the same treasurer by their discretion; the same fine not to be under three pounds, and to be levied by sale of his goods, and to be prosecuted by any two of the said justices of peace whom they shall authorize.*

[Repealed by the S. L. R. Act, 1863.]

This Act to take effect at Easter.

XVI. Provided always, that this Act shall not take effect until the feast of Easter next.

[Repealed by the S. L. R. Act, 1863.]

For what time and to what purpose the stat. of 39 Eliz. shall be put in execution.

XVII. And be it enacted, that the statute made in the nine and thirtieth year of Her Majesty's reign (intituled An Act for the Relief of the Poor) *shall continue and stand in force until the feast of Easter next; and that all taxations heretofore imposed and not paid, nor that shall be paid before the said feast of Easter next, and that all taxes hereafter before the said feast to be taxed by virtue of the said former Act, which shall not be paid before the said feast of Easter, shall and may, after the said feast of Easter, be levied by the overseers and other persons in this Act respectively appointed to levy taxations by distress, and by such warrant in every respect as if they had been taxed and imposed by virtue of this Act, and were not paid.*

[Repealed by the S. L. R. Act. 1863.]

Proviso for the Island of Fowlness in Essex.

XVIII. Provided always, that whereas the island of *Fowlness* in the county of *Essex* being environed with the sea, and having a chapel of ease for the inhabitants thereof, and yet the said island is no parish, but the lands in the same are situated within divers parishes far distant from the said island: Be it therefore enacted by the authority aforesaid, that the said justices of peace shall nominate and appoint inhabitants within the said island to be overseers for the poor people dwelling within the said island; and that both they the said justices and the said overseers shall have the same power and authority, to all intents, considerations, and purposes, for the execution of the parts and articles of this Act, and shall be subject to the same pains and forfeitures, and likewise that the inhabitants and occupiers of lands there shall be liable and chargeable to the same payments, charges, expenses, and orders, in such manner and form as if the same island were a parish; in consideration whereof neither the said inhabitants or occupiers of land within the said island shall not be compelled to contribute towards the relief of the poor of those parishes wherein their houses or lands which they occupy within the said island are situated, for or by reason of their said habitations or occupyings, other than for the relief of the poor people within the said island; neither yet shall the other inhabitants of the parishes wherein such houses or lands are

situated be compelled by reason of their resiancy or dwelling to contribute to the relief of the poor inhabitants within the said island. Sect. 18.

XIX. And be it further enacted, that if any action of trespass or other suit shall happen to be attempted and brought against any persons or person for taking of any distress, making of any sale, or any other thing doing by authority of this present Act, the defendant or defendants in any such action or suit shall and may either plead not guilty, or otherwise make avowry, cognizance, or justification for the taking of the said distresses, making of sale, or other thing doing by virtue of this Act; alleging in such avowry, cognizance, or justification that the said distress, sale, trespass, or other thing whereof the plaintiff or plaintiffs complained was done by authority of this Act, and according to the tenor, purport, and effect of this Act, without any expressing of rehearsal of any other matter or circumstance contained in this present Act; to which avowry, cognizance, or justification the plaintiff shall be admitted to reply, that the defendant did take the said distress, made the said sale, or did any act or trespass supposed in his declaration, of his own wrong, without any such cause alleged by the said defendant, whereupon the issue in every such action shall be joined, to be tried by verdict of twelve men, and not otherwise, as is accustomed in other personal actions; and upon trial of that issue the whole matter to be given on both parties in evidence according to the very truth of the same, and after such issue tried for the defendant, or nonsuit of the plaintiff after appearance, the same defendant to recover treble damages, by reason of his wrongful vexation in that behalf, with his costs also in that part sustained, and that to be assessed by the same jury, or writ to inquire of the damages, as the same shall require. The defendant's plea in a suit commenced against him upon this statute. Treble damages for the defendant, and his costs.

[Repealed by the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61).]

XX. Provided always, that this Act shall endure no longer than to the end of the next session of Parliament. Continuance of this Act.

[Repealed by the S. L. R. Act, 1863.]

POOR RELIEF ACT, 1662.

13 & 14 CAR. II., CHAP. 12.

An Act for the better Relief of the Poor of this Kingdom.

WHEREAS the necessity, number, and continual increase of the poor, not only within the cities of London and Westminster, with the liberties of each of them, but also through The occasion of increase of poor.

Sect. 1.

the whole kingdom of England and dominion of Wales, is very great, and exceeding burdensome, being occasioned by reason of some defects in the law concerning the settling of the poor, and for want of a due provision of the regulations of relief and employment in such parishes or places where they are legally settled, which doth inforce many to turn incorrigible rogues, and others to perish for want, together with the neglect of the faithful execution of such laws and statutes as have formerly been made for the apprehending of rogues and vagabonds, and for the good of the poor: for remedy whereof, and for the preventing the perishing of any of the poor, whether young or old, for want of such supplies as are necessary, may it please your most excellent Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, that whereas by reason of some defects in the law, poor people are not restrained from going from one parish to another, and therefore do endeavour to settle themselves in those parishes where there is the best stock, the largest commons or wastes to build cottages, and the most woods for them to burn and destroy; and when they have consumed it, then to another parish, and at last become rogues and vagabonds, to the great discouragement of parishes to provide stocks, where it is liable to be devoured by strangers; be it therefore enacted by the authority aforesaid, that it shall and may be lawful, upon complaint made by the churchwardens, or overseers of the poor of any parish, to any justice of peace, within forty days after any such person or persons coming so to settle as aforesaid, in any tenement under the yearly value of ten pounds, for any two justices of the peace, whereof one to be of the quorum, of the division where any person or persons, *that are likely to be chargeable* to the parish, shall come to inhabit, by their warrant to remove and convey such person or persons to such parish where he or they were last legally settled, either as a native, householder, sojourner, apprentice, or servant, for the space of forty days at the least, unless he or they give sufficient security for the discharge of the said parish, to be allowed by the said justices.

Poor people going from one parish to another,

how to be settled coming to any tenement under 10*l.* yearly value.

Sect. 1. Note.

Although this section is repealed by the Poor Removal Act, 1795 (35 Geo. 3, c. 101), s. 1, it nevertheless remains as the foundation of the law of settlement and removal; the repeal and the provisions substituted by the Act of 1795 altering the law only in this respect, that whereas by the present section justices were empowered to remove persons "likely to be chargeable" to the parish which they shall come to inhabit, they are empowered by the provisions of the Act of 1795 to remove only such persons as "shall have become actually chargeable" to the parish.

Settlement by residence in a tenement of 10*l.* for forty days.

As the time for applying to the justices under this section for an order of removal was limited to forty days after the poor person had come to inhabit, it followed that if he was during those forty

Sect. 1.

Note.

days settled in any tenement in the parish of the annual value of 10*l.* or upwards, so that he could not be removed, he could not afterwards be removed, although he ceased to rent or occupy the tenement; and he was therefore said to have gained a settlement in the parish.

Settlement by estate.

Some time after the passing of the above statute it was decided that a man could not be removed from a parish in which he had an estate in land, even though he become chargeable, "for a man though not in occupation of his own estate may have reasons for wishing to live in the neighbourhood of it, and is entitled to the privilege of superintending it" (*Rex* v. *Houghton-le-Spring*, 1 East, 247; S. P. *Rex* v. *Matlock*, 1 A. & E. 124; 3 L. J. M. C. 94; *Rex* v. *Brington*, 7 B. & C. 546; 1 M. & R. 431; *Rex* v. *Aythorpe Rooding*, Burr. S. C. 412); and it therefore followed, that if he resided forty days in the parish, during the time that he had the estate there, he thereby gained a settlement, because he had resided forty days in the parish while he was irremovable. And this was termed a settlement by estate.

Settlement by birth.

In the case of a person born in a parish, also, he was deemed to be settled there; for he could not be removed under the above statute, the statute only extending to strangers who came into a parish to settle in a tenement under the value of 10*l.* If indeed he afterwards acquired a settlement by renting a tenement, or by estate, &c., in another parish, he thereby relinquished or lost his birth settlement; for if he were removed, he must, by the terms of the statute, be removed to the parish where he was "last legally settled." Therefore the place of a man's birth was deemed his place of settlement, until it was proved that he had acquired or had some other settlement.

Settlement by payment of rates and apprenticeship.

The other species of original settlements were introduced by the Poor Relief Act, 1691 (3 Wm. & M. c. 11): the settlement by serving an office, and the settlement by payment of rates, &c., by sect. 6; the settlement by hiring and service, by sect. 7; and the settlement by apprenticeship, by sect. 8. Of these modes of settlement, those by hiring and service and by serving an office were abolished by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 64. The cases relating to the settlements by payment of rates and by apprenticeship are collected in the notes to 3 Wm. & M. c. 11, ss. 6, 8, *post*.

Settlement by residence for three years.

The last species of original settlement introduced is that by residence in a parish under the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 34, and is dealt with in the note to that section.

By marriage and parentage.

The two remaining species of settlement, namely, settlement by marriage and settlement by parentage, are derivative settlements. It was deemed expedient, in deciding upon settlements in cases of marriage and parentage, to establish it as a general principle, that the different members of a family should have the same settlement as the head of the family, for if they were allowed to have different settlements, they would, in case of their removal from any parish, be separated and dispersed. Therefore, if a man having a settlement married, his wife thereby acquired the settlement of her husband, and lost her own settlement, if she had any. She continued to have and follow his settlement during his lifetime; and after his death she retained the settlement she last had, until she acquired some other settlement, either in her own right, or by a

Sect. 1.

Note.

second marriage. But if a man not having any settlement married, his wife in that case retained her own settlement, if she had any. So the legitimate children of a married couple derived and followed their father's settlement, if he had any, or if not, then the mother's settlement, as long as they continued to be members of their family. And the legitimate children of a widow followed her settlement until she again married, and derived from her any settlement she might acquire in her own right, as long as they remained members of her family.

The tracing of derivative settlements was in some cases so difficult and expensive that it was greatly restricted by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 35; and the law on the subject as appearing from decided cases will be found in the notes to that section.

SETTLEMENT BY RENTING A TENEMENT.

The following are some of the decisions under this statute upon this form of settlement. They are, for the most part, now only of historical value, owing to subsequent legislation mentioned *infra*, which has restricted, and now regulates, the acquisition of a settlement by this means.

Meaning of "tenement."

Under this statute the widest meaning was given to the expression "tenement," which was held to include practically every interest in land in respect of which a person was tenant and not a mere licensee. Thus a tenement might be land, a house or part of a house (*Rex* v. *St. Giles-in-the-Fields*, Burr. S. C. 798), any permanent building or erection (*Rex* v. *Caversham*, 4 B. & C. 683), a windmill (*Rex* v. *Butley*, Burr. S. C. 107; 2 Str. 1077), a watermill (*Evelin* v. *Rentcombe*, 2 Salk. 536), a common in gross (*Rex* v. *Dersingham*, 7 T. R. 671), any profit issuing out of land to be taken in a place certain, such as a right of pasturage (*Rex* v. *Minster*, 3 M. & S. 276), or of taking gravel (*Rex* v. *All Saints, Derby*, 5 M. & S. 90), a dairy of cows (*Rex* v. *Tolpuddle*, 4 T. R. 671), a rabbit warren (*Rex* v. *Piddletrenthithe*, 3 T. R. 772), a fishery in a pool with the sedge and rushes (*Rex* v. *Old Alresford*, 1 T. R. 358), market tolls (*Rex* v. *Chipping Norton*, 5 East, 239), collieries and mines (*Rex* v. *North Bedburn*, Cald. 152), tile and pot kilns (*Rex* v. *Iken*, 2 A. & E. 147), &c. The singular "tenement" imported the plural "tenements," and it was not necessary that the several tenements, of which the aggregate yearly value was 10*l.*, should be rented in one parish; but a settlement was gained by residence for forty days in any parish in which one of the several tenements was rented (*South Sydenham* v. *Lamerton*, 1 Str. 57; *Rex* v. *Purley*, 16 East, 126); and if a man resided for forty days in more than one parish in which one of the several tenements was rented, he gained his settlement in that parish in which he last slept (*Rex* v. *St. Mary, Lambeth*, 8 T. R. 240). It was not necessary that the residence should be in or upon the tenement so long as it was in the parish where the tenement was rented (*Rex* v. *Kenardington*, 6 B. & C. 70; *Rex* v. *Topcroft*, Cald. 478); nor that it should be continuous (*Rex* v. *Caversham*, 4 B. & C. 592): though individual residence, not constructive residence by the family, was essential (*Rex* v. *St. George-the-Martyr, Southwark*, 7 T. R. 466). Occupation of the whole tenement by the tenant was not essential, but part might be sub-let, and the value of the part actually occupied by the tenant was immaterial (*Rex* v. *Llanverras*, Burr. S. C. 571; 1 W. Bl. 603).

Residence.

SETTLEMENT BY RENTING A TENEMENT—*continued.*

Sect. 1.

Note.

Value of tenement.

The value of the tenement was calculated without necessary reference to the rent paid for it (*South Sydenham* v. *Lamerton*, 1 Str. 57); and the calculation was made with reference to the state of the tenement at the time that the party came to settle on it, and not at a subsequent time when it might have become improved (*Rex* v. *Aston*, 6 M. & S. 54), or deteriorated by the taking the crops from it (*Rex* v. *West Cramore*, 2 M. & S. 132). The settlement was gained by the actual tenant of the tenement, no matter by whom the rent was paid (*Rex* v. *Hooe*, 4 East, 362); and the rent might be paid in services instead of money (*Rex* v. *Benneworth*, 2 B. & C. 775). Joint tenants gained a settlement if the proportionate value of each tenant's holding was 10*l.* (*Rex* v. *Seamar*, 6 T. R. 554), but not if it was below 10*l.* (*Rex* v. *Aberdardon*, 1 Q. B. 671; 10 L. J. M. C. 95).

The provisions of this statute were however altered by the following Acts: 59 Geo. 3, c. 50, s. 1 (repealed by 6 Geo. 4, c. 57), which (1) restricted the term tenement to land, houses or buildings; (2) required that a tenement rented at 10*l.* should be within one parish; (3) made rent and not value the criterion; and (4) required that the person hiring the tenement should pay the rent; the Poor Relief (Settlement) Act, 1825 (6 Geo. 4, c. 57); the Poor Relief (Settlement) Act, 1831 (1 Will. 4, c. 18); and the Poor Law Amendment) Act, 1834 (4 & 5 Will. 4, c. 76), s. 66. These Acts are still in force and are printed *post*, and the cases decided upon them appear in the notes to the same respectively. The general conditions for acquiring this form of settlement, as prescribed by these Acts, are now:—

1. The tenement must consist of either (1) a separate and distinct dwelling-house or building, or (2) land, or (3) land and a separate and distinct dwelling-house or building (6 Geo. 4, c. 57, s. 2);
2. The tenement must be within one parish or township (*ib.*);
3. The tenement must be *bonâ fide* rented at and for the sum of 10*l.* a year at the least for the term of one whole year (*ib.*);
4. The tenement must be actually occupied under such yearly hiring by the person hiring the same for the term of one whole year at the least (1 Will. 4, c. 18, s. 1);
5. The rent for the tenement to the amount of 10*l.* at the least must be actually paid by the person hiring the same (*ib.*);
6. The occupier of the tenement must be assessed to the poor rate and pay the same in respect of the tenement for one year (4 & 5 Will. 4, c. 76, s. 66);
7. Personal residence in the parish or township for forty days (13 & 14 Car. 2, c. 12, s. 1).

SETTLEMENT BY ESTATE.

Estate of freehold, copyhold, &c

It is immaterial whether the land be freehold or copyhold, &c.; the owner will equally gain a settlement by residing forty days in the parish in which it is situate.

Devisee of copyhold.

The devisee of a copyhold estate, upon the death of the devisor in 1780, took possession of it, but did not get himself admitted tenant until 1790. It was held that he gained a settlement before

SETTLEMENT BY ESTATE—*continued.*

Sect. 1.

Note.

admittance, as having for more than forty days enjoyed, and having a right to enjoy, the copyhold, without being removed by the parish officers (*Rex* v. *Thruscross*, 1 A. & E. 126; 3 N. & M. 284; and see *Harrow* v. *Edgware*, 2 Bott., 6th ed., pl. 608).

Tenant *pur autre vie.*

The pauper's father, Robert Whitley, about the year 1770, being then settled in Cassington, went to Hadborough, and resided there in part of a copyhold house belonging to his father, Thomas Whitley; Thomas afterwards devised this house to another son, John, but by his will, after bequeathing 5*l.* to Robert, stated that his desire was, that Robert should live in that part of the house he then occupied, at the same yearly rent he then paid, as long as his son John should enjoy or own the same; and Robert occupied accordingly for more than forty days after the father's death. The court held that the will gave Robert an estate in the house for the life of John, defeasible only on John's ceasing to enjoy or own it; and that Robert consequently gained a settlement in Hadborough, by residing in the house for forty days after the death of his father (*Rex* v. *Cassington*, 2 B. & Ad. 874; and see *Rex* v. *Woburn*, Burr. S. C. 785).

Estate must be legal or equitable.

Money was bequeathed to the mayor, &c., of the city of York, to build a hospital for the reception of twenty widows of freemen of the city, each to have a room to herself and 4*l.* a year for life. The hospital was built, and one of the poor widows, who was in possession of a room for her life, becoming chargeable to the parish in which the hospital was situate, an order for her removal to the place of her settlement was obtained, and upon appeal it was contended that this was an estate to which the pauper was entitled for her life, and she could not therefore be removed from it. But the court held that it was no estate; to confer a settlement by estate, the estate must be legal or equitable, and this was neither (*Reg.* v. *St. Mary, Castlegate*, 21 L. J. M. C. 106; and *see Rex* v. *Standon*, 2 M. & S. 461).

Right of common.

A right of common, if actually enjoyed, may also be deemed an estate capable of conferring a settlement. The resident freemen of Alnwick, a corporate town, had what was termed a right of common upon Alnwick Moor, each to the pasturage of five stints; the pauper was a resident freeman, but it did not appear that he ever exercised those rights, or had any commonable cattle. The court held that these rights seemed to be a franchise, and not a right of common: but even if it were a right of common, still as the pauper never enjoyed it, or had cattle wherewith to exercise the right, he gained no settlement by residing in the parish in which the common was situate (*Rex* v. *Warkworth*, 1 M. & S. 473).

Lands belonging to the corporation of Berwick, upon which the burgesses had formerly a liberty of depasturing their cattle, were inclosed and let by the corporation; the rents, which were reserved to the corporation, were divided into certain portions called stints, and one or two given annually to each resident burgess; the pauper was a resident burgess, and at the time of his removal was in receipt of two of these stints, amounting to 6*l.* 7*s.* 6*d.* The court held that the pauper gained no settlement by residing in the parish where these lands lay; he had no estate legal or equitable in them, for they belonged to the corporation as a body; and as to the stints, they were in the nature of pensions paid to the burgesses

SETTLEMENT BY ESTATE—*continued.*

Sect. 1.

Note.

as an equivalent for the right of common which they formerly enjoyed (*Rex* v. *Belford*, 10 B. & C. 54; 5 M. & R. 174).

Annuity charged on land.

An annuity charged upon an estate by a deed or will which does not give the annuitant a right to reside on the estate, does not confer a settlement (*Rex* v. *Stockley Pomroy*, Burr. S. C. 762). During the time a man officiated as schoolmaster at a parish charity school, a person left by will an annuity of 10*l.* to the vicar for the school, but which was in fact always paid to the schoolmaster, and he enjoyed it until his death. The court held that this was no estate from which a settlement could be derived (*Rex* v. *Melborne*, Burr. S. C. 244; 2 Str. 1225).

Estate in fee, for life, &c.

Whether the party have an estate in fee simple, fee tail, or for life, is wholly immaterial. And therefore, where the father of a pauper's wife, in consideration of natural love and affection, conveyed a customary cottage to the wife, for life, remainder to their daughter, in which cottage the pauper and his wife lived for many years, and then, after purchasing their daughter's interest, they sold it for 21*l.*; and about two years before the sale, the wife's aunt, for the like consideration, conveyed another customary estate, one moiety to the pauper and his wife for life, remainder to their son, the other moiety to their daughter, and the pauper and his wife remained in this for ten years: it was held on appeal that the pauper gained a settlement by residence upon these estates (*Rex* v. *Ingleton*, Burr. S. C. 560).

Estate of tenant in dower.

A tenant in dower gains a settlement by forty days' residence in the parish in which the estate assigned to her as dower is situate (*Rex* v. *Painswick*, Burr. S. C. 783; *Rex* v. *Long Wittenham*, 2 Bott., 6th ed., pl. 55, 686); but if dower is not actually assigned the widow gains no settlement by residing in the parish in which the estate was situate: she has no estate, legal or equitable, in the land, her legal right being to have dower assigned, and her equitable right merely to have an account of the rents and profits (*Rex* v. *North Weald Bassett*, 2 B. & C. 724).

Estate for years.

A man had a leasehold for a term of fifty years, of the yearly value of 5*l.*, but for which he paid the rent of 6*d.* only: he resided upon it many years, and then sold it for 32*l.* The court held that he thereby gained a settlement; he resided upon his own property more than forty days, and his having afterwards sold it made no difference (*Rex* v. *St. Mary, Whitechapel*, Burr. S. C. 55; S. P. *Reg.* v. *St. Giles-in-the-Fields*, [1841] 2 Q. B. 446; 11 L. J. M. C. 18). The husband of an administratrix, who is entitled as a *cestui que trust* to a lease for years, gains a settlement by residence in the parish (*Mursley* v. *Grandborough*, 1 Str. 97).

Joint tenancy or tenancy in common.

Joint tenants and tenants in common gain a settlement by estate in precisely the same cases as those who are entitled in severalty. A pauper was tenant in common with his mother and sisters of a small freehold estate in St. Clure, and resided with them upon it until he was about ten years old: he then went to St. Nyott's, where he resided until he was twenty, and had gained a settlement by hiring and service: he then returned to St. Clure, and worked as a day-labourer, sometimes residing upon the estate with his mother, sometimes at other places in the same parish, and sometimes in other parishes, for about three years, when he sold his share in the property. The court held that his settlement was in St. Clure (*Rex* v. *St. Nyott's*, Burr. S. C. 132; 2 Str. 1116).

SETTLEMENT BY ESTATE—*continued.*

Sect. 1.

Note.

In order to gain a settlement by estate, the party must have a present interest in it: an estate in remainder or reversion, though vested, is not sufficient for that purpose, it must be vested in possession. A pauper purchased two houses, and had them conveyed to his mother for life, remainder to himself in fee; he lived in one of the houses, and let the other to a tenant, receiving the rent himself, and paying to his mother the interest upon a sum of 105*l.* only; afterwards he sold the property. The court held that the pauper gained no settlement by this estate; he had but a remainder, and to gain a settlement the party must have a present interest (*Rex* v. *Willoughby with Sloothby*, 10 B. & C. 62; 5 M. & R. 32; S. P. *Rex* v. *Ringstead*, 9 B. & C. 218; 4 M. & R. 67; *Rex* v. *Eatington*, 4 T. R. 177).

Estate in remainder or reversion.

Estate by descent.

Heir-at-law.

Where an estate comes to the heir-at-law, he is entitled to a settlement by residing during forty days upon it, or in the same parish in which it is situate. A woman seised in fee of a messuage and land in Tirley married a man by whom she had a boy and a girl, and died; the husband then removed with the children to Hasfield, where he gained a settlement and died. The children then went to reside with their grandfather in Tirley, and resided there more than forty days, when they were removed to Hasfield. The court held that as to the girl she was properly removed, because Hasfield was her father's last place of settlement; but as to the boy, he was settled in Tirley, having resided there forty days with his grandfather after he had become entitled to the estate there as heir-at-law to his mother (*Rex* v. *Hasfield*, Burr. S. C. 147; 2 Str. 1131; S. P. *Rex* v. *Great Farringdon*, 6 T. R. 679).

Estate by devise.

The devisee of an estate may gain a settlement by residing on it, or in the same parish with it, forty days, even although it be an estate for years, under the yearly value of 10*l.* A man having a lease of a cottage, at a rent, devised it to his son on condition that he should pay a small annuity to his mother, and he made the son his sole executor; the son proved the will, and entered into possession of the cottage, but it did not appear that he paid the annuity to his mother; he was afterwards removed to the place of his former settlement. The court held that he could not be removed from the property thus devised to him, even although it was merely leasehold (*Rex* v. *Sundrish*, 2 Str. 983; Burr. S. C. 7).

Estate of trustee and *cestui que trust.*

Where an estate is vested in a trustee, as he has the legal estate in it, he may gain a settlement by residing on it, or in the same parish in which it is situate. A man having amongst other property a cottage and land at Enson which he rented as tenant from year to year, and which was under the value of 10*l.* a year, bequeathed the whole of his property to his son-in-law, in trust, to allow the testator's wife a maintenance during life, and to divide the property among his children after her death, and he made his son-in-law his executor; after his death, the son-in-law with his wife resided in the cottage, managed everything, paid the rent, &c., and maintained the widow for three years, until he was removed by order to the parish in which he had been previously settled. The court held that he had gained a settlement in Enson (*Rex* v. *Stone*, 6 T. R. 295).

So a *cestui que trust* has in general such an equitable estate as is sufficient to confer upon him a settlement by residing on the trust estate, or in the same parish with it. A man, having an estate which he bought for a sum under 30*l.*, devised it to trustees to let it, and pay the rents to his daughter for her life; and after his

SETTLEMENT BY ESTATE—*continued.*

Sect. 1.

Note.

death the daughter resided upon the estate (which was not of the annual value of 10*l.*) for upwards of forty days. The court held that she thereby gained a settlement; the estate was her own, and whilst the trustees allowed her to reside upon it, no other person had a right to remove her (*Rex* v. *Holm-East Waver Quarter*, 16 East, 127; S. P. *Rex* v. *Owersby-le-Moor*, 15 East, 356; *Rex* v. *Aslackby*, 5 A. & E. 200; 6 N. & M. 582; *Reg.* v. *Burgate*, 3 E. & B. 823; 23 L. J. M. C. 143; 18 Jur. 875).

A woman devised certain estates in Brompton and all her personal estate to trustees in trust (after payment of her debts), to apply the yearly rents and proceeds thereof for the benefit of her brother, his wife and children, all or any of them, as they should think proper during his life. After her death, the brother with his family resided in Brompton six months, and then died; but during his life-time there was not sufficient collected of the rents and proceeds to pay the testatrix's debts. The court held that he gained no settlement by his residence; he had no estate in the property devised, legal or equitable, which could render him irremovable; the trustees during his life had no rents or proceeds which they could apply for his benefit, and even if they had, he was but one of several to whom in their discretion they might give them, and it did not appear that they would have given them to him (*Rex* v. *Darlington*, 5 M. & S. 498; S. P. *Reg.* v. *St. Margaret, Leicester*, 2 Q. B. 559; 11 L. J. M. C. 48; 6 Jur. 503; *Rex* v. *Turrant, Launceston*, 3 East, 226).

Estate of mortgagor or mortgagee.

Both mortgagee and mortgagor, if in possession, will gain a settlement by residing on the estate mortgaged, or in the parish in which it is situate. But where some houses were mortgaged, and the tenants had attorned to the mortgagee, and one of them afterwards becoming vacant, the mortgagor asked and obtained leave of the mortgagee to live in it for the purpose of overlooking some repairs, as he intended to sell the estate and pay off the mortgage: nothing was said as to charging him rent for the house, but he occupied it three months, without, however, proceeding to make the repairs, or sell the estate: the court held that he gained no settlement by this residence; he was not in possession as mortgagor, and a mortgagor out of possession has neither *jus in re* nor *ad rem*, and cannot, therefore, gain a settlement in respect of the mortgaged estate (*Rex* v. *Catherington*, 3 T. R. 771; S. P. *Rex* v. *Cregrina*, 2 A. & E. 536; 4 N. & M. 455).

Estate of guardian.

A guardian in socage, and a guardian appointed by a parent in pursuance of 12 Car. 2, c. 24, s. 8, having an interest in the lands of their wards, may gain a settlement by residing on the estate for forty days (*Rex* v. *Oakley*, 10 East, 491; S. P. *Rex* v. *Wilby*, 2 M. & S. 504; *Rex* v. *Toddington*, 1 B. & Ald. 560; *Rex* v. *Sherrington*, 3 B. & Ad. 714).

Estate of executor.

Where an estate comes to a person as executor, he may gain a settlement by residing on it, or in the parish in which it is situated, even although it be holden merely from year to year at a rack-rent, and be under the annual value of 10*l.* The value of the tenement is immaterial in the hands of an executor (*Rex* v. *Stone*, 6 T. R. 295; S. P. *Rex* v. *Uttoxeter*, Burr. S. C. 538).

Estate of administrator.

So the estate an administrator acquires in a term for years of his intestate, is sufficient to confer upon him a settlement by residing on it, or in the parish in which it is situate, even though it be holden at a rack-rent, and be under the annual value of 10*l.* But

SETTLEMENT BY ESTATE—*continued.*

Sect. 1.

Note.

where a man, possessed of a cottage of small value for a term of years determinable upon lives, died intestate, leaving two sons, one of whom received his share of his father's property in goods, the other took possession of the property, and lived in it until the term expired; afterwards, being removed to his former place of settlement, he took out letters of administration to his father; the court held that he gained no settlement by his residence in the cottage; at the time he occupied the cottage he was not an administrator: and when he became administrator the term in the cottage no longer existed (*Rex* v. *Widworthy*, Burr. S. C. 109; see *Rex* v. *North Curry*, Cald. 137; 2 Doug. 770).

Estate of next of kin.

Where a person possessed of an estate for years dies intestate, if administration be taken out, the administrator may gain a settlement by the estate, but the next of kin cannot: if administration, however, be not taken out, then if there be but one person who is next of kin he may gain a settlement by the estate; but if there be two or more they cannot (*Rex* v. *Berkswell*, 1 B. & C. 542; 3 D. & R. 9; *Rex* v. *Lower Swell*, Burr. S. C. 436; *Rex* v. *Widworthy*, Burr. S. C. 109; and see *Rex* v. *Chew Magna*, Cald. 365; *Rex* v. *Canford Magna*, 6 M. & S. 355; *Rex* v. *Okeford Fitzpaine*, 1 B. & Ad. 254; *Rex* v. *Horsley*, 8 East, 405).

Estate by marriage.

In all cases in which a woman becomes entitled to such an estate as is sufficient to confer a settlement, if she marry while she is seised or possessed of it, or if it come to her whilst she is married, her husband will gain a settlement by residing on it, or in the same parish with it (*Reg.* v. *Thornton*, 29 L. J. M. C. 102; *Ashbrittle* v. *Wyley*, 1 Str. 608; *Rex* v. *Dorstone*, 1 East, 296; *Rex* v. *Cheadle*, 1 B. & Ad. 833).

It is not at all clear whether the Married Women's Property Act, 1882, makes any alteration in the law of settlement under this head. Seeing, however, that before the Act a husband was held to have gained a settlement by estate where the wife's property was vested in trustees for her separate use (*Rex* v. *Offchurch*, 3 T. R. 114), it may follow that the case of a husband is similar now when the wife is herself seised of property as her separate estate. If this is so, the following cases may still be of practical utility.

A man may gain a settlement by marriage with a woman entitled to an estate as executrix, administratrix, or next of kin. A man renting a small farm at the yearly rent of 3*l.* 5*s.* died, leaving his property by will to his daughter and making her executrix; and she afterwards married the pauper, and both of them resided upon the farm for many years. The court held that the pauper thereby gained a settlement (*Rex* v. *Ynyscynhanarn*, 7 B. & C. 233; 1 M. & R. 16). A man married an administratrix who in right of her former husband was possessed of a cottage for a term of years, at a rent of 1*s.* a year, part of which she occupied and part she let to a tenant. The court held that the second husband thereby gained a settlement (*Mursley* v. *Grandborough*, 1 Str. 97).

There are cases where, although the estate be such that the woman, if unmarried, could not gain a settlement in respect of it, yet, if she marry, her husband will gain a settlement by a residence of forty days upon it, or in the same parish with it, and she will derive that settlement from him (see *Reg.* v. *Halifax*, 24 L. J. M. C. 65). After the passing of 59 Geo. 3, c. 50, a widow took a house in

SETTLEMENT BY ESTATE—*continued.*

Sect. 1.

Note.

Winchcombe, at the yearly rental of 3*l.*; after she had resided in it for about three years, the pauper (who was then settled in North Cerney) married her, and lived with her in the house for three or four years; and the question was, whether he thereby gained a settlement in Winchcombe. The court held that he did; by his marriage he acquired an estate in the term, and by residing forty days upon it he gained a settlement (*Rex* v. *North Cerney*, 3 B. & Ad. 463). A woman purchased a cottage in Mickleton for a term of years for six guineas and then married; she and her husband afterwards resided in the cottage for sixteen years, when the husband died; and she afterwards resided in it for many years, and then sold it for 6*l.* The court held that she was settled in Mickleton; although she could not have gained a settlement by the estate, the purchase-money being under 30*l.*, yet upon her marriage the estate vested in her husband, and he gained a settlement by a residence of forty days upon it, which settlement was of course communicated to her (*Rex* v. *Ilmington*, Burr. S. C. 566; 1 W. Bl. 598; S. P. *Rex* v. *Barnard Castle*, 2 A. & E. 108; 4 N. & M. 128).

Estate where the title is disputable.

If the party have a title to the estate, although perhaps a doubtful or disputable one, yet if he occupy it or receive the rents and profits of it, and reside forty days either upon it or in the parish in which it is situate, he will thereby gain a settlement; and uninterrupted enjoyment without any claim being made for nearly twenty years will confer a settlement, though the possession may be adverse (*Rex* v. *Butterton*, 6 T. R. 554). Thus, where a man built a cottage on the waste, without the consent of the lord, and occupied it for thirty years without objection; upon his death, his daughter, who was his only child and heir-at-law, entered upon the cottage, and with her husband occupied it three-quarters of a year, when they sold it: the court held that they thereby gained a settlement; their title was disputable, perhaps, but in such a case the justices were not to determine the right (*Ashbrittle* v. *Wyley*, 1 Str. 608; S. P. *Rex* v. *Oakley*, 10 East, 491; *Rex* v. *Wooburn*, 10 B. & C. 846; *Rex* v. *Pensax*, 3 B. & Ad. 815; *Rex* v. *Garway*, Burr. S. C. 632; *R.* v. *Cuddington*, 14 L. J. M. C. 182; *Calverley* v. *Bradford*, 12 L. T. (N. S.) 51; *Rex* v. *Calow*, 3 M. & S. 22; *Rex* v. *Cold Ashton*, Burr. S. C. 444; *Rex* v. *Shenstone*, Burr. S. C. 468).

But possession under a void grant for less than twenty, or now twelve years, does not confer a settlement (*Rex* v. *Chew Magna*, 10 B. & C. 747). Nor does occupation as a mere licensee (*Rex* v. *Hagworthingham*, 1 B. & C. 634; *Rex* v. *Hornchurch*, 2 B. & Ald. 189).

Estate by purchase.

Formerly, a person, by buying an estate for any sum, however small, might acquire a settlement in the parish in which it was situate. This being liable to much abuse, it was enacted by the Poor Relief Act, 1722 (9 Geo. 1, c. 7), s. 5, that no person shall be deemed to gain a settlement by any purchase of an estate, whereof the consideration does not amount to 30*l.* *bonâ fide* paid, or for any longer time than such person shall inhabit in such estate. (See the cases collected under that statute.)

Residence of forty days necessary to gain the settlement.

In order to gain a settlement by estate, there must be a residence of the party for forty days either upon the estate or in the parish in which it is situate. Mere ownership of an estate without residence confers no settlement (*Ryslip* v. *Harrow*, 2 Salk. 524; *Wookey* v. *Hinton Blewet*, 1 Str. 476; *Rex* v. *Houghton-le-Spring*, 1 East, 247). And the residence must take place after the party becomes

SETTLEMENT BY ESTATE—*continued.*

Sect. 1.

Note.

entitled to the estate (*Rex* v. *West Sheffield*, Say, 2; Burr. S. C. 307). If the party agrees to sell the estate, but resides forty days before actually conveying it, he gains a settlement (*Rex* v. *Dorstone*, 1 East, 296).

It is not necessary that the forty days should be consecutive; it is sufficient if he reside in the parish forty days in the whole (*Rex* v. *St. Nyotts*, 2 Str. 1116; Burr. S. C. 132; *Reg.* v. *Knaresborough*, 16 Q. B. 446; 20 L. J. M. C. 147).

It is the person who is to gain the settlement that must be thus resident in the parish; a residence by his family will not be sufficient. A man, residing and settled in Aubury, ran away from his wife and family; but the wife's mother just then dying, and having devised to her two houses in St. Mary, Northchurch, one in fee and the other for life, the wife went there with her children and resided in one of the houses for two years, the husband never returning. The court held that she gained no settlement by this residence: during the life of her husband she could gain no settlement independently of him (*Berkhampstead* v. *St. Mary, Northchurch*, 2 Bott., 6th ed., pl. 51).

Residence within ten miles necessary to retain settlement.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 68, it is enacted, "that no person shall be deemed, adjudged, or taken to retain any settlement, gained by virtue of any possession of any estate or interest in any parish, for any longer or further time than such person shall inhabit within ten miles thereof; and in case such person shall cease to inhabit within such distance, and thereafter become chargeable, such person shall be liable to be removed to the parish wherein, previously to such inhabitancy, he may have been legally settled; or in case he may have, subsequently to such inhabitancy, gained a legal settlement in some other parish, then to such other parish." (See notes to that section, *post.*)

Fraud.

A settlement by estate is not gained when possession of the estate is gained by fraud (*Rex* v. *St. Michael's, Bath*, 2 Doug. 630; and see *Rex* v. *Ardleigh*, 7 A. & E. 70; 2 N. & P. 240; *Rex* v. *Owersby-le-Moor*, 15 East, 356; *St. Paul's, Walden* v. *Kempton*, Fol. 238; *Rex* v. *Great Glen*, 5 B. & Ad. 188; 2 N. & M. 91).

SETTLEMENT BY BIRTH.

Legitimate Children.

Place of birth *primâ facie* place of settlement.

The place of birth of a legitimate child is deemed *primâ facie* his place of settlement until some other settlement is proved (*Whitechapel* v. *Stepney*, Carth. 433; *Spitalfields* v. *St. Andrew's, Holborn*, Fort. 307; *Cripplegate* v. *St. Saviour's*, Fol. 265): and this, although the parents have no settlement (*Reg.* v. *Newchurch*, 3 B. & S. 107; 32 L. J. M. C. 19), and whether the parents be natives of this country, or of Scotland, or Ireland (*Reg.* v. *Preston*, 12 A. & E. 822; 10 L. J. M. C. 22; 4 P. & D. 509), or even of a foreign country.

"I take it to be a rule of law that every English-born subject has a settlement, and that settlement is *primâ facie* his place of birth. It is *primâ facie* only, because the moment it is shown that either father or the mother has gained a settlement in England, then the settlement of the child is, as the case may be, that of the father or mother. But if they have no settlement here, or what

SETTLEMENT BY BIRTH—*Legitimate Children—continued.*

Sect. 1.

Note.

comes to the same thing, their place of settlement cannot be found out, then the child's birth settlement, which has always been potentially in existence, comes into practical effect" (*Reg.* v. *All Saints, Derby*, 14 Q. B. 219; 19 L. J. M. C. 15; 14 L. T. 152; 13 Jur. 1100).

It was proved that a pauper was born in the parish of Beard, and it appeared also in evidence that his father resided and kept a public-house many years at Bolton, yet as the father's settlement was not actually proved, the court held that the place of the pauper's birth must be deemed his place of settlement (*Rex* v. *Heaton Norris*, 6 T. R. 653). A pauper's mother proved that he was born at Halaugh, although she also proved that her husband (who was still living) had before his marriage served two years in another parish, but whether under a yearly hiring or not she could not say. As the father's settlement was not actually proved, the court held that the place of the pauper's birth must be deemed his place of settlement (*Rex* v. *Whixley*, 2 Bott., 6th ed., pl. 30). A woman was removed as "Ann Pitman, widow," and the place of her birth only was proved. The court held that it must be deemed her place of settlement, because her deceased husband's settlement, or that of her father and mother, had not been proved (*Rex* v. *Woodford*, Cald. 236).

The law as appearing from the above cases must now be to some extent modified in consequence of the enactment in the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 35. The place of birth is still *primâ facie* the place of settlement, but in consequence of the provisions of that section it is not sufficient merely to show that the father or mother had a settlement in order to displace the birth settlement of the pauper. It must be shown that the father or the widowed mother had a settlement at a time when the pauper was under the age of sixteen. A child no longer takes a settlement acquired by a parent after the child is sixteen years of age. And further, if the inquiry is being made into the settlement of a pauper above the age of sixteen, the settlement of the parent acquired while the pauper was under the age of sixteen must be an original or primary settlement, otherwise the birthplace of the pauper is his place of settlement. (See notes to that section, *post.*)

A birth settlement does not require a residence of forty days to complete it (*Reg.* v. *Watford*, 9 Q. B. 626; 16 L. J. M. C. 1; 10 Jur. 1053; 2 N. S. C. 460; 11 J. P. 39).

Proof of legitimacy.

Proof merely that a pauper was baptized after the marriage of his parents will not of itself be sufficient evidence of legitimacy, unless it appear also that he was at that time so young that he must have been born after marriage (*Goodright* v. *Moss*, Cowp. 591).

Proof of place of birth.

Mere declarations of the father or mother as to the place of birth of the pauper are not evidence, though tendered in evidence after their death (*Rex* v. *Erith*, 8 East, 539). A register of baptism, of itself, is no evidence of the place of birth, although if it were also proved that the child was very young when it was baptized, such proof, coupled with the register, might afford presumptive evidence of its having been born in the parish (*Rex* v. *North Petherton*, 5 B. & C. 508; see, however, *contra*, *Rex* v. *Creech St. Michael's*,

SETTLEMENT BY BIRTH—*Legitimate Children—continued.*

Sect. 1.

Note.

Burr. S. C. 765). A pauper, in his evidence, stated that his first recollection of himself, when about four years old, was that he was in the workhouse at Chatham, and remained there until he was thirteen, and the sessions held that this was no evidence of his being born there. The court thought that the sessions had come to the right conclusion, and refused to disturb it (*Rex* v. *Trowbridge*, 7 B. & C. 252; 1 M. & R. 7). In order to prove the birth settlement of Elizabeth Britton at Ketton, the appellants proved the marriage of her father and mother there in 1749, the baptism of Mary their daughter there in 1751, the baptism of John their son there in 1752, the baptism of their daughter Elizabeth (the person in question) there in 1755, and the baptism of Susannah, another daughter, there in 1756; but the sessions, not being satisfied upon this evidence, that Elizabeth was born at Ketton, decided against the settlement, and the court confirmed the order of sessions (*Rex* v. *Lubbenham*, 5 B. & Ad. 968; 3 N. & M. 37; *Rex* v. *St. Catherine's-near-the-Tower*, 5 B. & Ad. 970; and S. P. *Rex* v. *Crediton*, E. B. & E. 231; 27 L. J. M. C. 265; 4 Jur. (N. S.) 926; 31 L. T. 114; 22 J. P. 722).

A statement made by a soldier in his attestation paper as to the place of his birth, is not, in the absence of other evidence, sufficient under sect. 163 of the Army Act, 1881 (44 & 45 Vict. c. 58), to determine his place of settlement (*Chertsey Union* v. *Surrey, Clerk of the Peace*, 69 L. T. 384; 57 J. P. 807).

Exceptions.

By sect. 2 of the Poor Relief Act, 1814 (54 Geo. 3, c. 170), children born in prisons or in lying-in hospitals licensed under 13 Geo. 3, c. 82, do not thereby gain a birth settlement in the place where such prison or hospital is situate (see *Suckley* v. *Whitborn*, 2 Bulst. 358; *Elsing* v. *Hereford*, 1 Sess. Ca. 99); and by sect. 3 a person born of the body of any poor person in a workhouse locally situated in any district, parish, township, or hamlet shall, so far as regards the settlement of such person, be deemed and taken to be born in the district, parish, township, or hamlet by whom the mother of such person was sent to, and on whose account the mother of such person was received and maintained in such house. By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 56, the workhouse of a union shall be deemed to be in the parish to which each poor person therein relieved is or has been chargeable.

Illegitimate Children.

The birthplace of an illegitimate child, born before the passing of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), is its place of settlement (*Rex* v. *Spitalfields*, 1 Ld. Raym. 567; *Rex* v. *Astley*, 2 Bott., 6th ed., pl. 17). Being *nullius filius*, it neither had nor followed the settlement of the father or mother; consequently, if it were born in a place that was extra-parochial, it had no place of settlement at all until it acquired one (*Rex* v. *St. Nicholas, Leicester*, 2 B. & C. 889; *Rex* v. *Mattersey*, 4 B. & Ad. 211).

By 4 & 5 Will. 4, c. 76, s. 71, every child which shall be born a bastard after the passing of that Act, "shall have and follow the settlement of the mother of such child until such child shall attain the age of sixteen, or shall acquire a settlement in its own right." This was interpreted to mean that an illegitimate child took and followed any settlement which its mother had or acquired, whether

SETTLEMENT BY BIRTH—*Illegitimate Children—continued.*

Sect. 1.

Note.

in her own right or by marriage (*Reg.* v. *St. Mary, Newington*, 4 Q. B. 581; 12 L. J. M. C. 68; 2 G. & D. 626; 7 Jur. 440), while the child was under the age of sixteen, and retained such settlement until the age of sixteen although the mother might have died (*Reg.* v. *Sutton-under-Brailes*, 5 E. & B. 814; 25 L. J. M. C. 57; 26 L. T. 198; 2 Jur. (N. S.) 210); but when it had reached that age it ceased to have or follow the settlement of the mother, and reverted to its birth settlement, which it thenceforth retained until it acquired a settlement of its own (*Bodenham* v. *St. Andrew's, Worcester*, 1 E. & B. 65; 22 L. J. M. C. 39; 17 Jur. 206).

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 35, "an illegitimate child shall retain the settlement of its mother until such child acquires another settlement," the practical effect of which enactment, after making due allowance for the differences arising from the circumstance that in law a bastard has no father, is to place illegitimate as nearly as may be on the same footing with legitimate children, and to get rid of the decision in *Bodenham* v. *St. Andrew's, Worcester*, *supra* (*Reigate Union* v. *Croydon Union*, 14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580, *per* Lord Watson). The section, however, does not apply retrospectively to a bastard who had attained the age of sixteen before the passing of the Act, and had in accordance with the law existing at that time reverted to his birth settlement (*Tenterden Union* v. *St. Mary, Islington*, 47 L. J. M. C. 81; 38 L. T. 485).

Even since the passing of 39 & 40 Vict. c. 61, the settlement of an illegitimate child under the age of sixteen years is *primâ facie* in the parish where it was born; and if an order of removal is made adjudicating its settlement to be in such parish, and is appealed against, it lies upon the appellants to prove some other or superior settlement, *e.g.*, the settlement of its mother. In this respect the law is the same as to legitimate and illegitimate children (*Headington Union* v. *Ipswich Union*, 25 Q. B. D. 143; 59 L. J. M. C. 92; 62 L. T. 786; 38 W. R. 586; 54 J. P. 516). It was held in 1881 that under that Act illegitimate children under sixteen did not take the settlement of their mother acquired by the mother's marriage (*Reg.* v. *Portsea Guardians*, 7 Q. B. D. 384; following *Manchester Overseers* v. *St. Pancras*, 4 Q. B. D. 401). But these decisions appear to be overruled by the judgment of the House of Lords in *Reigate Union* v. *Croydon Union*, *supra*.

Proof of illegitimacy.

If the mother be unmarried, she may give evidence of the illegitimacy of her children, or if she be reputed to be a married woman, the marriage may be disproved, or facts showing its invalidity may be proved, either by her (*Rex* v. *Bramley*, 6 T. R. 330), or by the man to whom she was reputed to be married (*Rex* v. *St. Peter's, in Worcestershire*, Burr. S. C. 25; *Henley* v. *Chesham*, 2 Bott., 6th ed. pl. 96). Or if she be married, she may prove her connection with the putative father (*Rex* v. *Luffe*, 8 East, 193); but she cannot be permitted to prove the non-access of her husband (*Ib.*; *Rex* v. *Rook*, 1 Wils. 340; *Rex* v. *Mansfield*, 1 Q. B. 444; 10 L. J. M. C. 97; 5 Jur. 505), even after the husband's death (*Rex* v. *Kea*, 11 East, 132). Nor can the husband's evidence be admitted to prove non-access (*Rex* v. *Sourton*, 5 A. & E. 180).

Either husband or wife, however, may prove that the child was

SETTLEMENT BY BIRTH—*Illegitimate Children—continued.*

Sect. 1.

Note.

born before marriage (*Goodright* v. *Moss*, Cowp. 591); but their declarations to that effect, or as to the place of birth, even after their death, though receivable in questions of pedigree, are no evidence whatever in settlement cases (*Rex* v. *Erith*, 8 East, 539).

The rule that in proceedings by guardians before justices for the maintenance or removal of children, the evidence of the married parents to prove non-access is inadmissible, is not altered by the Evidence Further Amendment Act, 1869 (32 & 33 Vict. c. 68), s. 3, which relates to such evidence in "proceedings instituted in consequence of adultery" (*Nottingham Union* v. *Tomkinson*, 4 C. P. D. 343; 48 L. J. M. C. 171).

SETTLEMENT BY MARRIAGE.

Wife takes and follows husband's settlement.

By marriage the wife immediately acquires the settlement of the husband, if he have one (*St. Giles, Reading*, v. *Eversley, Blackwater*, 1 Str. 580; 2 Ld. Raym. 1332; *Rex* v. *Hinxworth*, Cald. 42; Doug. 46 n.; and see 39 & 40 Vict. c. 69, s. 35), whether the husband be an Englishman or a foreigner (*Rex* v. *Eastbourne*, 4 East, 103). And she continues, during his life, to follow his settlement, that is to say, to acquire every settlement he may gain in his own right; but she is not capable of gaining any settlement by any act of her own during her marriage (*Rex* v. *Aythorpe Rooding*, Burr. S. C. 412), whether her husband have any settlement or not (*Berkhampstead* v. *St. Mary, Northchurch*, 2 Bott. 33); unless she is deserted by her husband, in which case she may gain a settlement by residence after her desertion (24 & 25 Vict. c. 55, s. 3; 39 & 40 Vict. c. 61, s. 34; *Reg.* v. *Maidstone Union*, 5 Q. B. D. 31; 49 L. J. M. C. 25; 28 W. R. 183). Unless deserted, however, a married woman does not gain a settlement in her own right by residence, under 39 & 40 Vict. c. 61, s. 34, in the parish in which her husband is settled (*Medway Union* v. *Bedminster Union*, 14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580); nor by residing, during the absence of her husband abroad, upon an estate of which she is equitable owner in a different parish from the parish of her husband's settlement (*Rex* v. *Brington*, 7 B. & C. 546; 1 M. & R. 431).

The marriage, however, must be valid (*Chinham* v. *Preston*, 1 W. Bl. 192; *Rex* v. *Northfield*, 2 Dougl. 659). If, for instance, a man marry his deceased wife's sister, or even the illegitimate daughter of such sister, the wife gains no settlement by the marriage (*Reg.* v. *Brighton*, 1 B. & S. 447; 30 L. J. M. C. 197; 5 L. T. (N. S.) 56); but if the marriage is in itself valid, the wife takes the husband's settlement, although the marriage was fraudulently procured by the contrivance of parish officers (*Rex* v. *Birmingham*, 8 B. & C. 29; 2 M. & R. 230).

A wife takes the settlement (if any) of her husband, although the husband's settlement is derivative. Thus the wife of a man whose place of birth was known, but who, while under the age of sixteen, had derived a settlement from his father, took the derivative and not the birth settlement of her husband (*Great Yarmouth* v. *Clerk of the Peace of London*, 3 Q. B. D. 232; 47 L. J. M. C. 61). In such cases, the rule is that the wife takes the husband's settlement whatever it may be, whether original or derivative; and the inquiry then is, what is the husband's settlement; but if a derivative

SETTLEMENT BY MARRIAGE—*continued.*

Sect. 1.

Note.

settlement of the husband is set up, it can only be such a derivative settlement as is allowed by 39 & 40 Vict. c. 61, s. 35 (*West Ham Union* v. *St. Giles-in-the-Fields*, 25 Q. B. D. 272; 59 L. J. M. C. 144; 63 L. T. 496; 38 W. R. 736; 54 J. P. 520).

Widow.

A widow retains the settlement (if any) which she derives as a wife from her husband until she acquires a new settlement in her own right, and does not on the death of her husband revert to her maiden settlement (*Reigate Union* v. *Croydon Union*, 14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580; overruling *Maidstone Union* v. *Holborn Union*, 17 Q. B. D. 817; 56 L. J. M. C. 91; 51 J. P. 54; and *Kingsbridge Union* v. *East Stonehouse*, 18 Q. B. D. 528; 56 L. J. M. C. 83; 56 L. T. 333; 35 W. R. 580; 51 J. P. 470).

Where husband has no settlement.

If the husband have no settlement, the wife does not, by her marriage, lose or relinquish the settlement she previously had, and which is usually termed her maiden settlement (*Dunsfold* v. *Dunsfold Windsborough Green*, Gilb. Rep. 97; Fol. 284; *Rex* v. *Hedsor*, Cald. 371; *Rex* v. *Woodsford*, Cald. 236; *Rex* v. *St. Botolph's, Bishopsgate*, Burr. S. C. 367).

The wife, however, in such a case, cannot be removed to the place of her maiden settlement, so as to separate her from her husband, without his consent (*Rex* v. *Carleton*, Burr. S. C. 813), but with his consent she may (*Rex* v. *Eltham*, 5 East, 113); or if the husband be dead, or have abandoned her, or be absent at the time she becomes chargeable, she may be removed to the place of her maiden settlement (*Rex* v. *St. Botolph's, Bishopsgate*, Burr. S. C. 367; *St. Giles'* v. *St. Margaret's*, Fol. 251; *Rex* v. *Cottingham*, 7 B. & C. 615; *Rex* v. *Harberton*, 13 East, 311; see *Stratford* v. *Norton*, Burr. S. C. 122, *contra*, but not law).

But if the husband be a Scotchman or Irishman, or a native of the Channel Islands, and living with the wife at the time, his wife or their children cannot be removed to the wife's maiden settlement, even with his consent, but they must be all passed to the husband's country, according to 8 & 9 Vict. c. 117 (*Rex* v. *Leeds*, 4 B. & Ald. 498); but otherwise if he be dead, or have abandoned her, or be absent at the time she becomes chargeable (*Rex* v. *Cottingham*, 7 B. & C. 615; *St. Giles'* v. *St. Margaret's*, Fol. 251). Where the husband, a Scotchman, who had gained no settlement in England, was on a voyage to Calcutta at the time his wife and children became chargeable, not having left sufficient means of support for his family, the court held that such an absence amounted to a desertion by the husband, and that the wife and children were properly removed to the wife's maiden settlement (*Reg.* v. *St. Mary-le-bone*, (1851) 16 Q. B. 352; 20 L. J. M. C. 61; 15 Jur. 245).

Where husband's settlement is unknown.

When the husband's settlement is unknown, it is the same precisely as if he had none; and his wife and children may be removed to the place of her maiden settlement, in the same cases and under the same circumstances, as if the husband had no settlement (*Rex* v. *Ryton*, Cald. 39). A husband had abandoned his wife, and in her evidence she stated that he was born somewhere in Wiltshire, but in what parish or place she knew not, nor had she ever heard. The court held that she was properly removed to the place of her maiden settlement (*Rex* v. *Westerham*, 2 Bott., 6th ed., pl. 108; S. C. *Westham* v. *Chiddinstone*, 2 Str. 683; S. P.

SETTLEMENT BY MARRIAGE—*continued.*

Sect. 1.

Note.

Rex v. *Hedsor*, Cald. 371; *Reg.* v. *Yelvertoft*, 6 Q. B. 801; 14 L. J. M. C. 78; 1 N. S. C. 476; *Reg.* v. *Birmingham*, [1846] 8 Q. B. 410; 15 L. J. M. C. 65). Where, however, evidence was given by the respondents that the husband was born in Ipswich, but it was not known in what parish in Ipswich, the court held that the wife could not be removed to her maiden settlement: if the evidence had been given by the appellants, it would have been otherwise (*Rex* v. *St. Mary, Beverley*, 1 B. & Ad. 201).

Proof of marriage.

The marriage or reputed marriage may be proved or disproved by the husband or wife (*Goodright* v. *Moss*, Cowp. 591; *Standen* v. *Standen*, Peake, N. P. C. 45; *Rex* v. *Bathwick*, 2 B. & Ad. 639).

Or, it may be proved by any person who was present, and can identify the parties (*St. Devereux* v. *Much Dewchurch*, Burr. S. C. 506; 1 W. Bl. 367); or by an examined copy of the registry of the marriage and evidence of identity, such as, for instance, the handwriting of the parties to the register, or that the bells were rung at their wedding, and the bellringers paid by them, or the like (Bull. N. P. 27, 28); and this evidence will be sufficient, without proof of any licence or publication of banns (*Rex* v. *Allison*, or *Wilkinson*, Russ. & Ry. 109).

If the marriage were in a foreign country, proof that it was solemnized in the manner usual in that country will be good presumptive proof that it was a valid marriage (*Lacon* v. *Higgins*, 3 Stark. 178; *Rex* v. *Brampton*, 10 East, 282).

Or, the marriage may be proved by reputation. Lord Mansfield, C.J., laid it down as a general rule that proof of an actual marriage was necessary only in two cases, namely, in a prosecution for bigamy, and an action for criminal conversation; in all other cases, proof of cohabitation, name, reception of the woman by the world as the man's wife, or the like, was sufficient (*Morris* v. *Miller*, 4 Burr. 2057; 1 W. Bl. 632). Upon an appeal against an order of removal, it was proved that the man and woman went from the village where they resided, saying they were going to be married, that when they came back they said they had been married, and that they afterwards cohabited and lived together as man and wife for thirty years, until the woman died; the register of their child's baptism was also put in, in which he was described as the child of John and Elizabeth Moss: the court held this to be sufficient proof of the marriage (*Rex* v. *Stockland*, Burr. S. C. 508; 1 W. Bl. 367).

Marriage under an assumed name, if not fraudulently assumed to deceive the other party to the marriage, is valid for purposes of settlement (*Rex* v. *Billingshurst*, 3 M. & S. 250; *Rex* v. *Burton-on-Trent*, 3 M. & S. 537).

A bigamous marriage does not confer a settlement (*Rex* v. *Harborne*, 2 A. & E. 540; 4 L. J. M. C. 49; 4 N. & M. 341); but the court will not lightly presume bigamy (*Rex* v. *Twyning*, 2 B. & Ald. 886). No settlement can be gained through a marriage with a person within the prescribed degrees of affinity (*Reg.* v. *Brighton*, [1861] 1 B. & S. 447; 30 L. J. M. C. 197; 5 L. T. (N. S.) 56).

If the woman have at any time been removed by order of justices describing her as the wife of the man, and the order were not appealed against, this is conclusive proof of the marriage for settlement purposes (*Rex* v. *Silchester*, Burr. S. C. 551; *Rex* v. *Berkeswell*, 2 Bott., 6th ed., pl. 85; S. P. *Rex* v. *North Featherton*, 1 Sess. Ca.

SETTLEMENT BY MARRIAGE—*continued.*

Sect. 1.

Note.

pl. 154; *Rex* v. *Binegar*, 7 East, 377; *Rex* v. *Woodchester*, Burr. S. C. 191; *Rex* v. *Hinxworth*, Cald. 42; Doug. 46 n.).

And it is thus conclusive, not only as against the parish who failed to appeal against the order, but as against all others, provided the order be valid, and were acted upon (*Ryslip* v. *Harrow*, 2 Salk. 524).

SETTLEMENT BY PARENTAGE.

This form of settlement is now determined by the provisions of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 35, and its limitations and the decided cases relative thereto will be found in the notes to that statute.

EMANCIPATION.

An unemancipated child could not gain for himself a settlement other than a birth settlement; and he followed any new settlement gained by his father or widowed mother (see *Rex* v. *Witton-cum-Twambrookes*, 3 T. R. 355). Until 1876 it was a matter of evidence whether the child was emancipated or not, whatever his age might be, and numerous cases were decided relative to this question. Now, however, by sect. 35 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), the age of sixteen is fixed absolutely as the period of emancipation in all questions regarding the settlement of legitimate children, without regard to their physical or mental capacity (see *Reigate Union* v. *Croydon Union*, 14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580, *per* Lord Watson). The age of sixteen was fixed as the period of emancipation for illegitimate children by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 71. The lapse of time has made it unnecessary to refer now to decisions upon this subject prior to 1876, and there have been none since that date.

AGE OF NURTURE.

It is a general rule that a child cannot be removed from its parent if it be under the age of seven years, which is called the age of nurture, even though the parent consent to, or wish it (*Reg.* v. *Kingston*, 21 L. T. (N.S.) 488; *Reg.* v. *St. Anne, Blackfriars*, 2 E. & B. 441; 22 L. J. M. C. 137; 17 Jur. 575; 17 J. P. 615); and this age of nurture has no relation to the doctrine of emancipation (*Rex* v. *Tottington Lower End*, Cald. 284).

The law and the cases decided under this head are collected in the notes to 9 & 10 Vict. c. 66, s. 3, *post*.

REMOVAL.

As stated *supra*, the Poor Removal Act, 1795 (35 Geo. 3, c. 101), s. 1, altered the law as to the removal of poor persons, by enacting that only persons "actually chargeable" should be removed, instead of allowing persons to be removed who were "likely to be chargeable." The law and decided cases upon the question of who are "actually chargeable" will be found in the notes to that section.

A further innovation was made by the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 1, and the Acts amending and extending that Act. The combined effect of this statute of 13 & 14 Car. 2, c. 12, and

REMOVAL—*continued.*

Sect. 1.

Note.

of the Poor Removal Act, 1795 (35 Geo. 3, c. 101), s. 1, was that justices were empowered to remove persons from any parish, who were actually chargeable to the parish, at any time after they had become chargeable and before they had actually gained a settlement in the removing parish (see *Rex* v. *Ampthill*, [1824] 2 B. & C. at p. 852, *per* Bailey, J.). The Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 1, and its amending Acts, provided that no person should be removed from any parish or union in which such person had resided for one year next before the application for a warrant of removal, notwithstanding that such person had not acquired a settlement in such parish or union; in calculating, however, the year of residence, certain periods during which the person might have been in prison, or serving in the army or navy, or receiving parochial relief, &c., were not to be taken into account. This law of irremovability and the cases decided with reference thereto, will be found set out in the notes to 9 & 10 Vict. c. 66, and the statutes therein mentioned, *post*.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), orders of removal of persons chargeable to any union may be obtained by the guardians of the union; and by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 25, guardians of parishes may be authorized by the Local Government Board to obtain and defend orders of removal (see notes to 28 & 29 Vict. c. 79, s. 2, *post*).

Casual poor.

"Casual poor" cannot be removed although chargeable. Casual poor are those poor persons who are not settled in the parish, nor reside there, but who happen casually to be there at a time when, from some accident occurring to them, or from their being suddenly afflicted with some illness, they are obliged to resort to the parish officers for relief (*Reg.* v. *Cuckfield*, [1856] 5 E. & B. 523; 25 L. J. M. C. 4; 1 Jur. (N. S.) 1047; 20 J. P. 196). These must be relieved, and they are not removable to their place of settlement whilst necessarily detained by their illness, or the effects of the accident, &c. (*Rex* v. *St. James, in Bury St. Edmunds*, 10 East, 25).

Their non-liability to removal did not originally depend upon the express words of any statute, but followed from the fact that they are not persons who have "come to inhabit" the parish where they are taken sick within the meaning of this section (13 & 14 Car. 2, c. 12, s. 1), and the powers of removal vested in the justices did not therefore extend to them. Now, however, they are expressly exempted from removal by the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 4, unless their sickness be of such a nature as to produce permanent disability (see notes to that section, *post*).

As to the incidence of the costs of maintaining casual poor, see the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 2.

The following cases illustrate the law independently of the provisions of 9 & 10 Vict. c. 66, s. 4:—

A pauper settled in the parish of Linthall Starks, being in the parish of Bromfield with his master's team, was thrown down by the horses and his thigh broken; he was carried to Ludlow, where he remained until he recovered; shortly after his being carried to Ludlow, the justices there made an order for his removal to Linthall Starks, but suspended it until he could be removed with safety. The court, however, quashed the order; they held that no person can be the subject of an order of removal but one who comes to

REMOVAL—*continued.*

Sect. 1.

Note.

settle in the removing parish; the pauper here was casual poor in Ludlow, and irremovable (*Rex* v. *St. Lawrence, Ludlow*, 4 B. & Ald. 660).

A man, settled in Oldland, resided in the parish of M. for a considerable time, when meeting with an accident, and thereupon becoming chargeable to M., he was removed by order to Oldland. The court held that he was properly removed, as he was a resident in M. at the time of the accident, but it would have been otherwise if he had been mere casual poor at the time (*Rex* v. *Oldland*, 4 A. & E. 929; 6 N. & M. 529; 2 H. & W. 4).

A man, who resided in Bolney, met with an accident whilst passing through Cuckfield, and was unable to proceed; he was maintained there as casual poor until he recovered, and after his recovery he still continued to reside in Cuckfield, but afterwards becoming chargeable, he was removed by order, not to Bolney, but to the place of his actual settlement. The court held this to be correct: but he could not have been removed by order to Bolney (*Reg.* v. *Cuckfield*, *supra*, p. 140).

REMOVAL—EXAMINATION AS TO SETTLEMENT, &C.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 70, the party chargeable or witnesses may be summoned to give evidence as to the pauper's settlement, &c.: and disobedience to such summons, or refusal to give evidence, may be punished by fourteen days' imprisonment.

The examination must be taken down in writing; and by the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 3, a copy of the depositions must be supplied, if required, by the clerk to the justices to the guardians of the union to which the pauper is ordered to be removed, provided that no order shall be quashed on the ground only of the insufficiency of such depositions.

By the Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 28, any person who is a prisoner in gaol or custody may be examined touching the place of his or her last legal settlement by a justice, and such examination, taken down in writing, shall be evidence so long as such person is a prisoner.

It is necessary, in order to make such examination evidence, to prove that the party is in gaol or custody at the time of tendering it (*Reg.* v. *Widdecombe-on-the-Moor*, 9 Q. B. 394; 16 L. J. M. C. 44; 2 N. S. C. 539; 11 Jur. 227).

By the Poor (Settlement and Removal) Act, 1809 (49 Geo. 3, c. 124), s. 4, if a pauper is too ill or infirm to appear before the justices he may be examined by one justice of the district, who shall report the examination to any other justice or justices of the same district.

It is not essential to the validity of an order of removal that the pauper himself should be examined, although such examination is usual (*Rex* v. *Tavistock*, 3 D. & R. 427; *Rex* v. *Bagworth*, Cald. 179).

In ordinary cases the examination must be taken before two justices of the peace. An order of removal stated, "it appears upon examination before us or one of us:" was held bad, for the

REMOVAL—*Examination as to Settlement, &c.—continued.*

Sect. 1.

Note.

examination should have been before both justices (*Rex* v. *Stanstead Mount-Fitchett*, 2 Salk. 488).

An order of removal was made by two justices of Wiltshire, upon an examination taken before two justices of Middlesex. The court held it bad on that account: the justices should not have adjudicated on such an examination: the examination should have been taken by the two justices who made the order, and both should have been present at the time (*Rex* v. *Coln, St. Aldwin's*, Burr. S.C. 136).

A criminal information will be granted against justices making a wilful misstatement in the order, as the person or persons taking the examination, so as to make it appear that the justices making the order had jurisdiction to do so (*Rex* v. *Howarth*, 2 Bott., 6th ed., pl. 822; *Rex* v. *Wykes*, 2 Str. 1092; Andr. 238).

REMOVAL—EVIDENCE OF SETTLEMENT.

The settlement of the pauper in a parish in the union to which he is to be removed must be proved; and the guardians should be prepared with legal proof of every fact necessary to constitute the settlement (*Reg.* v. *Yorks. W. R. JJ.*, 1 G. & D. 706; 11 L. J. M. C. 80), with names, dates, &c. (*Rex* v. *Derbyshire JJ.*, 6 A. & E. 885); otherwise the justices may refuse to make the order. So, if the evidence be not legal—if, for instance, the evidence be hearsay evidence merely (*Reg.* v. *Lydeard St. Lawrence*, 11 A. & E. 616; *Reg.* v. *Rishworth*, 2 Q. B. 476; 11 L. J. M. C. 34), or if the parties offer to prove a written instrument without producing it (*Reg.* v. *Mildenhall*, 2 Q. B. 517; 11 L. J. M. C. 107), the justices may reject the evidence and refuse to make the order.

The various settlements, original or derivative, above-mentioned must be proved by evidence of the facts required to constitute such settlements. A settlement in a parish may, however, also be proved by admission of settlement by relief, or by proving a previous order of removal, both of which constitute a species of estoppel. What is sufficient to constitute, and what is the extent of, such estoppel, will appear from the following cases:—

Admission of settlement by relief.

Admission of settlement by relief is proved by evidence that relief was given once or oftener to the pauper by the guardians of the union or overseers of the parish to which he is about to be removed, whilst he was residing in another parish (*Rex* v. *Trowbridge*, 7 B. & C. 252; 1 M. & R. 7; 6 L. J. (o. s.) M. C. 7; *Rex* v. *Edwinstowe*, 8 B. & C. 671; 7 L. J. (o. s.) 30). From such evidence the justices or sessions may, but are not bound to infer a settlement in the relieving parish (*Rex* v. *Yarwell*, 8 L. J. (o. s.) M. C. 8). The clerk of union A. wrote to the guardians of union B., desiring them to give certain relief to a pauper residing in their union on account of union A., which was accordingly done, and the amount afterwards repaid: this was holden to be some evidence of relief by the parish in union A. to which it was charged (*R.* v. *Wigan*, 14 Q. B. 287; 19 L. J. M. C. 18; 3 N. S. C. 670; 13 Jur. 1052).

The kind of relief and the times at which it was received should be stated as accurately as possible. However, when it was stated that the parish officers had relieved the pauper's husband several times during the last six years, whilst residing out of their parish, and particularly by relieving him several times in 1839 and 1840, whilst

REMOVAL—*Evidence of Settlement—continued.*

Sect. 1.

Note.

he was residing in Liverpool: this was holden sufficient (*Reg.* v. *Carnarvonshire JJ.*, 2 Q. B. 325; 11 L. J. M. C. 3).

A pauper in his examination, after stating the ages of his six children, stated that on the occasion of his wife's confinement on the birth of several of their children, he had been allowed medical attendance for her by the appellant parish: this was deemed sufficient (*Reg.* v. *Birmingham*, 1 N. S. C. 105).

Payment of relief by a parish adjudged liable to maintain a pauper under an order of removal, was held to be a sufficient execution of the order of removal without any evidence of there having been an actual removal, and although the pauper continued to reside in the parish from which he had been ordered to be removed (*Reg.* v. *Clifton*, 2 Q. B. D. 540; 46 L. J. M. C. 209; S. C. *Clifton* v. *Liverpool*, 41 J. P. 599).

Where the sessions found that the relief had been given by the overseers under a mistake of the law as to the pauper's settlement, and decided against the settlement, the court confirmed their decision, for as relief is merely an admission of a settlement, if it be proved to have been given under a mistake, it would be unreasonable that the parish should be concluded by it (*Rex* v. *East Winch*, 12 A. & E. 697).

Giving money to a pauper to enable him to return to a particular place is not an acknowledgment of settlement in the relieving parish (*Rex* v. *Trowbridge*, 7 B. & C. 252; 1 M. & R. 7; 6 L. J. (o. s.) M. C. 7).

Relief by a parish or township, whilst the pauper is residing in the same parish or township, is no evidence of settlement at all (*Rex* v. *Chatham*, 8 East, 498; *Rex* v. *Chadderton*, 2 East, 27; *Reg.* v. *St. Giles-in-the-Fields*, 5 Q. B. 872; 13 L. J. M. C. 89; 1 N. S. C. 137), even though the relief is continued for a long time, and one of the family is put out apprentice by the parish (*Rex* v. *Coleorton*, 1 B. & Ad. 25; 8 L. J. (o. s.) M. C. 118).

The above cases only apply to parishes not in union. Where the relieving officer of a union swore that he paid the paupers parish relief for upwards of a year, during which time he had given them 2*s.* 6*d.* weekly on account of the township of Steeple Aston, out of money in his hands belonging to the said township: the court held it to be no evidence of relief by the township, because it did not appear that the officer, who was an officer of the union, had any authority from the township to make the payment (*Reg.* v. *Bradford*, 8 Q. B. 571 n.; 15 L. J. M. C. 117; *Reg.* v. *Little Marlow*, 16 L. J. M. C. 70). But in a case where application for relief was made by a pauper to the relieving officer of a union, and in consequence the board of guardians ordered relief to be given on account of a particular parish in the union, and the officer relieved accordingly, this was evidence of the relief being given on account of that parish (*Reg.* v. *St. Mary, Bungay*, 12 Q. B. 98; 19 L. J. M. C. 39; 3 N. S. C. 714; 14 Jur. 242; S. P. *Reg.* v. *Crondall*, 10 Q. B. 812; 16 L. J. M. C. 175; *Reg.* v. *Wigan*, 14 Q. B. 287; 19 L. J. M. C. 18; 3 N. S. C. 670; 13 Jur. 1052).

And now, since the passing of the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), by which the previous enactments of 4 & 5 Will. 4, c. 96, s. 26, making each parish in a union separately liable to defray the expense of its own poor, was repealed, and all the cost of relief to the poor in any parish in a union was made

REMOVAL—*Evidence of Settlement—continued.*

Sect. 1.

Note.

chargeable upon the common fund of the union, it would seem that relief to a poor person by a relieving officer of a union would be no evidence of the settlement of such poor person in any particular parish in that union.

Order of removal unappealed against.

If an order of removal upon which a pauper has been removed be not appealed against, it is conclusive evidence of the pauper's settlement at that time, even as between third parishes no parties to the former order (*Rex* v. *Corsham*, 11 East, 388).

A pauper was removed by order to Chalbury, and Chalbury, instead of appealing against it, obtained another order for the removal of the pauper to Chipping Farringdon, and had him removed accordingly: the court held that this could not be done; the first order was good against all the world, until reversed (*Chalbury* v. *Chipping Farringdon*, 2 Salk. 488; *Rex* v. *Leverington*, Burr. S. C. 276). But it does not prevent the pauper gaining any other settlement afterwards (*Rex* v. *Fillongley*, 2 T. R. 709).

An order unappealed against and acted upon, puts an end to the residence of the pauper in the parish from which he is removed, however short the residence may be in the parish to which he is removed (*Reg.* v. *Seend*, 18 L. J. M. C. 12).

An order unappealed against is conclusive, not only as to the settlement, but also as to every other matter stated in the order, which is a material step in the adjudication of the settlement. A pauper Jane Moor, and one G. Wise, were removed from Newbury to Euborn, by the names of G. Wise and Jane his wife, and the order was not appealed against; the overseers of Euborn, however, finding that the woman was not Wise's wife, had her removed, by the name of Jane Moor, to Silchester, and Silchester appealed: the Court of Queen's Bench held that Euborn, by not appealing, was now estopped from saying that the woman was not the wife of Wise, or that both were not settled in that parish (*Rex* v. *Silchester*, Burr. S. C. 551; S. P. *Rex* v. *Binegar*, 7 East, 377; *Rex* v. *Rudgeley*, 8 T. R. 620; *Reg.* v. *Hartington*, 4 E. & B. 780; 24 L. J. M. C. 98; 1 Jur. (N. S.) 586).

But where on the trial of an appeal against an order of removal from A. to B., the respondents relied upon a former order of removal, whereby the pauper, when six weeks old, had been removed to B., together with her mother, it was held that the description of the pauper in that order as "the daughter" of C., who was then removed, did not estop the appellant from disputing her legitimacy, as her illegitimacy would have afforded no ground of appeal against the former order (*Reg.* v. *Caerwys*, 8 E. & B. 720; 30 L. T. 256).

And it is equally conclusive as to the settlement of those who have afterwards to derive their settlement from the parties named in the order, and before such parties gain a new settlement (*Rex* v. *Woodchester*, Burr. S. C. 191; 2 Str. 1172; *Rex* v. *St. Mary, Lambeth*, 6 T. R. 615). But an order for the removal of parents, unappealed against, has no effect upon the settlement of any of their children who were emancipated at the time the order was made, and were not named in it (*Rex* v. *Southouram*, 1 T. R. 353); unless it be shown that neither father nor child had acquired any settlement since the emancipation (*Reg.* v. *Brighthelmstone*, 7 Q. B. 549; *Rex* v. *Catteral*, 6 M. & S. 83).

REMOVAL—*Evidence of Settlement—continued.*

Sect. 1.

Note.

An order unappealed against is conclusive, not only as between the two parishes or unions, to the officers of which it is directed, but as against all others. Upon an appeal against an order for the removal of a pauper from East Moulsey to Corsham, it was proved by the appellants that the pauper's late husband had been removed by order from Charlton to Garsden, and that order had never been appealed against; it was contended that this was no evidence against East Moulsey, which had not been a party to the former removal, and ought not, therefore, to be concluded by the *laches* of Garsden in respect of it. But the court held that the order unappealed against was conclusive evidence of a settlement in Garsden, not only as between Charlton and Garsden, but all other parishes (*Rex* v. *Corsham*, 11 East, 388; and see *Chalbury* v. *Chipping Farringdon*, 2 Salk. 488; *Rex* v. *Ealing*, 2 Bott., 6th ed., pl. 897; *Alderton* v. *Fellingtoe*, 2 Bott., 6th ed., pl. 913).

If the order, however, be so defective as to be void, it cannot be thus deemed conclusive of the settlement. A pauper was removed from Swalcliffe to Ascott, a large village, part of the parish of Whichford, and not maintaining its own poor separately from the parish. Ascott did not appeal; the pauper finding his way back again to Swalcliffe, was then removed again to Stourton, and Stourton appealed. It was objected that as the order of removal to Ascott was unappealed against, that was conclusive of the pauper being settled there, instead of at Stourton; and the Court of King's Bench held that it would be so, if Ascott were a vill supporting its own poor separately from Whichford; but as that was not the case, a removal to Ascott was a mere nullity, and was, therefore, the same as if no such order had been made (*Rex* v. *Swalcliffe*, Cald. 248; S. P. *Rex* v. *Chilverscoton*, 8 T. R. 178; *Rex* v. *Kirby Stephen*, Burr. S. C. 664).

If the order be abandoned or not acted upon, and on that account not appealed against, it is not conclusive of the settlement (*Rex* v. *Llanrhydd*, Burr. S. C. 658).

Order appealed against and confirmed.

If an order of removal be appealed against and confirmed, this is conclusive of the settlement, not only as against the appellant parish, but as between other parishes; but if the order is discharged on appeal, that is conclusive only between the parties to the appeal. A pauper was removed by order from Harrow to Ryslip, and Ryslip appealed, but the order was confirmed; Ryslip had him then removed to Hendon, but the court held that as the sessions, by confirming the former order, had decided that the pauper was last legally settled in Ryslip, Ryslip was thereby estopped from saying that he was settled elsewhere (*Harrow* v. *Ryslip*, 2 Salk. 524; S. P. *Little Bitham* v. *Somerby*, 1 Str. 292; *Mynton* v. *Stoney Stratford*, 2 Salk. 527).

An order of removal of a father, confirmed on appeal, is conclusive also as to the settlement of such of his children as are named in the order, and may be conclusive as to children who are not named (*Rex* v. *Catterall*, 6 M. & S. 83; *Reg.* v. *Wye*, 7 A. & E. 761; 3 N. & P. 6).

Where an order is confirmed on appeal, not on its merits, but on account of some default on the part of the appellants in prosecuting the appeal, it has been variously decided whether such confirmation precludes a second appeal against the same order: thus—

REMOVAL—*Evidence of Settlement—continued.*

Sect. 1.

Note.

A good notice of appeal was given, but the statement of the grounds of appeal was not sent in time, and the sessions therefore confirmed the order, subject to a case; the appellants, however, instead of proceeding with the case, afterwards, at the same sessions, entered and respited a fresh appeal against the same order; but when this latter appeal came on for trial at the next sessions, the justices refused to hear it, as the matter had already been adjudicated: and the court held that they had done rightly (*Reg.* v. *Oundle*, 3 Q. B. 353; 11 L. J. M. C. 79; 2 G. & D. 77; 6 Jur. 533). Notice of appeal was given for the next sessions after the service of the order, but in consequence of the grounds of appeal not having been served fourteen days before these sessions, the court confirmed the order, making a special entry: "Order confirmed, not on the merits, no due notice having been given;" the pauper was then removed, and a fresh appeal was entered against the order. The court held that the right of appeal was not lost by the order being confirmed in the former case; that was but an attempt to appeal, which became abortive by reason of the grounds of appeal not being served in time (*Reg.* v. *Macclesfield*, 13 Q. B. 881; 19 L. J. M. C. 38; 4 N. S. C. 56; 13 Jur. 1048).

Order appealed against and quashed.

An order of removal, if quashed, and the decision be upon the point of settlement, is conclusive as between the appellant and the respondent (*Rex* v. *Wick St. Lawrence*, 5 B. & Ad. 526; 2 N. & M. 289; *Reg.* v. *Yeoveley*, 8 A. & E. 806; 1 P. & D. 60), but does not bind other parishes (*St. Michael's, Bedingham*, v. *Kingston Bowsey*, Carth. 516; 2 Salk. 486; S. P. *Cirencester* v. *Colne St. Aldwin's*, Burr. S. C. 17; *Rex* v. *Bentley*, Burr. S. C. 425).

The decision must also have been given in respect of the same person as the one for whose removal an order has subsequently been made. Where an appeal was brought against an order for the removal of a female pauper, it was sought to show that the matter was concluded between the appellant and respondent parishes by an order of sessions quashing an order for the removal of the pauper's brother, on a suggestion that the point at issue was precisely the same in both appeals; but it was held that the previous order of sessions was neither conclusive nor even admissible in evidence upon the second appeal (*Rex* v. *Knaptoft*, 2 B. & C. 883).

To be conclusive, however, the decision must have been upon the merits of the case, and not upon a mere point of form, or the like. If the order is quashed for some defect in form or mistake, independent of the merits, it is not conclusive (*Reg.* v. *St. Anne, Westminster*, 9 Q. B. 878; 16 L. J. M. C. 41; *Rex* v. *St. Andrew's, Holborn*, 6 T. R. 613; *Reg.* v. *Great Bolton*, 7 Q. B. 387; 14 L. J. M. C. 122).

Evidence is admissible to show whether an order was quashed on the merits or not (*Reg.* v. *Widdecombe-on-the-Moor*, 9 Q. B. 894; 16 L. J. M. C. 44; 2 N. S. C. 539; 11 Jur. 227; *Reg.* v. *Lankley*, 9 Q. B. 905; 16 L. J. M. C. 81; *Rex* v. *Wheelock*, 5 B. & C. 511).

An order quashed on the ground that chargeability was not proved, no adjudication being made by the sessions as to the question of settlement, is not conclusive on a further complaint supported by evidence of subsequent chargeability (*Reg.* v. *Peranzabuloe*, 3 Q. B. 400; 13 L. J. M. C. 47).

REMOVAL—THE ORDER OF REMOVAL.

Sect. 1.

Note.

By the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 7, if upon appeal to quarter sessions, or on return to *certiorari*, objection is made on account of any omission or mistake in the drawing up of any order, and it is shown that sufficient grounds were in proof before the justices to authorize the drawing of it up correctly, the court may amend the order, and adjudicate upon it as if no such omission or mistake had ever existed.

By the Metropolitan Police Courts Act, 1839 (2 & 3 Vict. c. 71), s. 14, and the Stipendiary Magistrates Act, 1858 (21 & 22 Vict. c. 73), s. 1, metropolitan and stipendiary magistrates are empowered to make orders of removal to the same extent as two justices (see notes to 2 & 3 Vict. c. 71, s. 14, *post*).

By the terms of this statute of Charles II. the order of removal must be made by "two justices of the peace, whereof one to be of the quorum, of the division" where the person chargeable shall have come to inhabit. Where it did not appear upon the face of the order that the justices who made it were justices of the division in which the removing parish was situate, the court overruled the objection, holding that the statute was merely directory in that respect (*Anon.*, 2 Salk. 473). The order, however, must be made by two justices acting together, and the same two by whom the pauper and witnesses were examined (*Rex* v. *Howarth*, 2 Bott., 6th ed., pl. 822; *Rex* v. *Coln, St. Aldwin's*, Burr. S. C. 136). Where the magistrates signed the order separately, and not in the presence of each other, the court held that this did not render the order absolutely void, but merely voidable upon appeal (*Rex* v. *Stotfold*, 4 T. R. 596). An order of removal made by the justices at quarter sessions is bad, for they have no original jurisdiction in such a case (*Rex* v. *Bond*, 2 Show. 503).

The order must show distinctly that the justices who made it had jurisdiction, otherwise it will be a nullity and not merely voidable, and the union to which it is directed may object to it at any distance of time though it never appealed against it (*Rex* v. *Chilverscoton*, 8 T. R. 178).

In the following cases the order was held to be bad for not showing jurisdiction in the justices making it: Where it recited, "Whereas complaint has been made to us," without stating that they were justices of the peace (*Walton* v. *Chesterfield*, 5 Mod. 322); where it stated them to be "justices of the county," instead of "justices of the peace in and for the county," as there were other justices besides justices of the peace (*Rex* v. *Uplin*, Set. & Rem. 27); where it stated them to be "justices of the peace in the county," not saying "of or for the county" (*Rex* v. *Owlton*, 2 Sess. Cas. 76).

Where the order was directed to the overseers of a parish in the county of Middlesex, and to the overseers of a parish in Buckinghamshire, and it described the justices as justices of the peace in and for the county aforesaid, without saying which: the court held it to be bad for uncertainty (*Rex* v. *Stepney*, Burr. S. C. 23; S. P. *Rex* v. *Moor Critchell*, 2 East, 66).

But if the name of the county or place for which the justices act appear in the margin of the order, and it is reasonably plain by reference thereto that the justices making the order have in fact jurisdiction, the court will hold the order to be valid, *ut res magis*

REMOVAL—*The Order of Removal—continued.*

Sect. 1. Note.

valeat quam pereat (*Rex* v. *St. Mary's, Leicester*, 1 B. & Ald. 327; *Reg.* v. *Casterton*, 6 Q. B. 507; 14 L. J. M. C. 5; 1 N. S. C. 449; 8 Jur. 1093; *Rex* v. *Bourn*, Burr. S. C. 39; *Rex* v. *Southwold*, Burr. S. C. 140; *Rex* v. *Andover*, Cald. 373).

The order ought to state that the justices are justices "in and for" the district where the order is made (*Reg.* v. *Stockton-on-Tees*, 7 Q. B. 520; 14 L. J. M. C. 128; 9 Jur. 523; S. P. *Reg.* v. *Newton Ferrers*, 9 Q. B. 32); but if it states that it was made by justices "in and for" the proper district, it need not also state the particular place where it was made within that district (*Reg.* v. *Halifax*, 12 Q. B. 111; 17 L. J. M. C. 158; 12 Jur. 789).

By the Poor (Settlement and Removal) Act, 1809 (49 Geo. 3, c. 124), s. 4, if a pauper is too ill or infirm to appear before the justices, he may be examined by one justice of the district, who shall report the examination to any other justice or justices of the same district. Where, in such a case, it was objected that the order of removal ought to have stated specially that the examination had been taken by one justice, and reported to another, the court held it to be unnecessary, and confirmed the order (*Rex* v. *South Lynn, All Saints*, 4 M. & S. 354; S. P. *Rex* v. *Everden*, 9 East, 101).

Disqualification of justices.

Where one of the justices was churchwarden of the removing parish, the court held the order to be bad; for the same party cannot be complainant and adjudicate upon the complaint (*Rex* v. *Great Yarmouth*, 6 B. & C. 646). Formerly a justice could not join in making an order of removal if he were a rated inhabitant of the removing parish (*Rex* v. *Great Chart*, 2 Str. 1173; Burr. S. C. 194); but this was remedied by the Justices Jurisdiction Act, 1742 (16 Geo. 2, c. 18), s. 1, and it is now no objection to an order of removal that the justices who made it are rated inhabitants of either parish [or union].

Since the Poor Removal Act, 1795 (35 Geo. 3, c. 101), neither of the removing justices need be of the quorum; and a pauper removed by an order of the mayor and ex-mayor of a municipal borough within 5 & 6 Will. 4, c. 76, which had no separate commission of the peace, was well removed (*Rex* v. *Llangian*, 4 B. & S. 249; 32 L. J. M. C. 225; 8 L. T. (N. S.) 422; 10 Jur. (N. S.) 16).

Judicial discretion of justices.

The court will not grant a *mandamus* to justices to make an order of removal in any particular case, because the justices are the judges whether a settlement has or has not been proved in the parish to which it is sought to remove the pauper. Two justices took the examinations, but refused to make an order, because they were of opinion that a subsequent settlement had been gained in another parish: Williams, J., refused to grant a *mandamus*, although it appeared that the justices were clearly mistaken in their opinion as to the subsequent settlement (*Reg.* v. *Rogers*, 12 L. J. M. C. 50).

Upon whose complaint.

Since the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), the removal order is made upon the complaint of the guardians of the union, and also, since the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 25, by the board of guardians of a single parish, if authorized by the Local Government Board. Formerly, by the terms of this statute of Charles II., the order of removal must have been "upon complaint made by the churchwardens or overseers of the poor of any parish": or by the overseers of the poor of a township or hamlet (see sect. 21); and

REMOVAL—*The Order of Removal—continued.*

Sect. 1.

Note.

the order must now state that it is made upon complaint of the guardians, in order to show that the justices had jurisdiction. Where an order omitted to state any complaint to the justices, the court quashed it, saying that the complaint was the very foundation of the justices' jurisdiction (*Rex* v. *Harely*, Andr. 361; *Rex* v. *St. Giles-in-the-Fields*, 7 Q. B. 529; 15 L. J. M. C. 122; 2 N. S. C. 389; 10 Jur. 754). Where an order stated it to have been made on complaint, without saying of whom, the court quashed it (*Western Rivers* v. *St. Peter's*, 2 Salk. 492). Where an order directed to the overseers of two parishes, recited, "Whereas complaint has been made by you unto us," &c., without saying which of the parishes made the complaint, the court held it to be bad (*Spalding* v. *St. John-the-Baptist*, Fol. 267). An order made upon the complaint of individual ratepayers, not being overseers, would formerly have been bad (*Reg.* v. *Colbeck*, 12 A. & E. 161; 3 P. & D. 488). And so now it would be bad if made by individuals not being guardians. But where it was objected that the complaint was not stated to have been upon oath, the court held that the statute did not require it (*Rex* v. *Standish-cum-Langtree*, Burr. S. C. 150).

It is not required by the statute, nor is it necessary, that the complaint should be in writing (*Rex* v. *Bedingham*, 5 Q. B. 653; 13 L. J. M. C. 75).

Where the order stated the complaint to have been made to one justice, and the order was made by two, this was holden sufficient (*Rex* v. *Westwood*, 1 Str. 73).

To whom directed.

The order must be directed to the guardians of the complaining union, and also to the guardians of the union or to the board of guardians of the parish to which the pauper is to be removed. An order directed a pauper to be removed from the parish of St. George to the parish of St. Olave, but was directed to the churchwardens and overseers of the latter parish only. The court held it to be bad and quashed it (*St. George's* v. *St. Olave's*, 2 Salk. 493).

Description of persons to be removed.

The pauper must be named in the order, otherwise it will be bad. An order merely stated that a certain woman had intruded, &c., without naming her; the court held it to be bad, saying that in an order of removal the pauper must either be so named, or described as a person unknown (*Southwell* v. *Needwell*, Set. & Rem. 57).

The names and ages of children (if any) removed with their parent should also be set out: the names in order that their identity may thereafter be the more readily proved (*Rex* v. *Withernwick*, 6 A. & E. p. 278, *per* Coleridge, J.); and their ages, for if they be above the age of sixteen, they may possibly have a settlement in their own right. Where the order was for the removal of a man and "his family," the court held it to be bad (*Johnson's Case*, 2 Salk. 485). Where an order was for the removal of a woman and her "five children," the court quashed it for uncertainty as to the children, because their names and ages were not set out (*Rosstem* v. *Flixton*, 1 Sess. Cas. 11; S. P. *Rex* v. *Normanton*, Burr. S. C. 213). Where the names, but not the ages of the children, were set out, the court quashed the order as to the children; for either their ages must be set out, or there must be an express adjudication that they have gained no other settlement (*Rex* v. *Stanfield*, Burr. S. C. 205; *Rex* v. *Bowling*, Burr. S. C. 177). But an omission of the ages of the children is remedied by adjudicating, in the order of removal, that the parish to which they are about to be removed is the place of their

REMOVAL—*The Order of Removal—continued.*

Sect. 1. Note.

last legal settlement (*Ringmore* v. *Petworth*, Set. & Rem. 41). Where an order for the removal of a man, his wife and three children, to Bramshaw did not state the ages of the children, and it was objected to on this account, the court held that as it adjudged Bramshaw to be the place of settlement of the children, and not merely of the father, it was unnecessary to state their ages (*Rex* v. *Bramshaw*, Burr. S. C. 98). Where an order for the removal of a man, his wife and three children, to Ufculm, adjudged Ufculm to be "their" last place of settlement, the court held that the word "their" referred to the children as well as the father and mother, and as the order therefore adjudged the place of settlement of the children, it was unnecessary to state their ages (*Rex* v. *Ufculm*, Burr. S. C. 138).

It is no objection that two persons of the same family (*e.g.*, mother and son), having gained different settlements in the same parish, are included in the same order of removal (*Reg.* v. *All Saints, Newcastle-on-Tyne*, 1 Q. B. 428; 10 L. J. M. C. 89).

Statement of inhabitation and chargeability.

It is necessary and sufficient that the order should follow the words of 35 Geo. 3, c. 101, s. 1, and state that the pauper is now inhabiting in the parish [or the union] from which he is removed and is actually chargeable to the parish [or union].

Where the recital of the complaint was that the pauper "intruded and came into the parish of M., and had actually become chargeable to, and is now inhabiting in the same parish," and this was objected to, because it did not state that the pauper "had come to settle" or "come to inhabit," in the words of 14 Car. 2, c. 12, s. 1: the court held that the complaint must follow, not the words of the statute of Charles, but those of 35 Geo. 3, c. 101, under which magistrates now exercise their power of removal, and which only requires that the pauper be inhabiting in the parish, and be actually chargeable to it, both of which conditions were satisfied by this order (*Reg.* v. *St. Paul's, Covent Garden*, [1846] 7 Q. B. 533; 16 L. J. M. C. 11).

An order that does not state that the pauper is actually chargeable is bad (*Reg.* v. *St. Giles-in-the-Fields*, 7 Q. B. 529; 15 L. J. M. C. 122; S. P. *Rex* v. *Holme East Waver*, 11 East, 381). And *semble*, that an order which stated that the pauper "had become chargeable" in the past tense, would be bad (*Ib.*).

It is not necessary to state negatively in the order that the relief was not made necessary by sickness or accident (*Reg.* v. *Halifax*, 17 L. J. M. C. 158); but if the fact be that it was so, the justices in their order must state that they are satisfied that the sickness or accident will produce permanent disability, otherwise the omission will be a good ground of appeal (*Reg.* v. *Priors Hardwick*, 18 L. J. M. C. 177; and see 9 & 10 Vict. c. 66, s. 4, *post*).

As to evidence of chargeability see notes to 35 Geo. 3, c. 101, s. 1, *post*.

Adjudication of settlement.

The order must adjudicate as to the truth of the guardians' complaint, and must contain a definite statement that the justices "do adjudge" the place of the last legal settlement of the pauper to be in the parish in the union to which he is ordered to be removed; a statement that they believe it to be so (*Stallingburgh* v. *Haxley*, 1 Sess. Ca. 131), or that they are informed it is so (*Rex*

REMOVAL—*The Order of Removal—continued.*

Sect. 1.

Note.

v. *Waltham Magna*, Set. & Rem. 88), or that it is so to their knowledge (*Rex* v. *St. Mary Ottery*, Set. & Rem. 32), is insufficient and vitiates the order.

An order which merely recited the complaint of the overseers, and then, without adjudicating upon the truth of that, passed on to the adjudication of the settlement, was held to be bad and was quashed (*Rex* v. *Minchinhampton*, 2 Sess. Ca. 93; S. P. *Suddlecombe* v. *Burwash*, 2 Salk. 491; *Rex* v. *Netherton*, Burr. S. C. 139).

The court held the order to be bad in the following cases: Where there was no adjudication of the settlement, but the order merely recited that the pauper came from his last place of abode and legal settlement in B., and then proceeded to order the removal (*Bury* v. *Arundel*, 2 Salk. 479); where the order contained no adjudication of the settlement, but ordered the pauper to be removed to A., "as the place of his last legal settlement" (*Rex* v. *Westwood*, 1 Str. 73); where the order adjudged that the "last place" (not saying of settlement) of the pauper was in W. (*Rex* v. *Warnhill*, 2 Sess. Ca. 92). But where an order of removal adjudicated that S. "was" the last place of settlement of the pauper, in the past tense, and it was objected to, because it might not be so at the time of the making of the order, the court held it to be sufficient (*Beatson* v. *Seisson*, 1 Str. 114; *Rex* v. *Holbeck*, Burr. S. C. 198).

A widow and her children were removed to B., and the order, instead of adjudging as to her settlement, adjudged that B. was the place of the last legal settlement of her deceased husband. The court held the order bad, because the widow might have gained another settlement since the death of her husband (*Eglium* v. *Hartley Wintley*, 1 Sess. Ca. 45; S. P. *Rex* v. *Great Bedwin*, Burr. S. C. 584).

A woman and her children were removed to M., and the order adjudged that her husband, G. S., was legally settled in M. The court held it to be insufficient, for the children were not removed as his children, nor the woman as his wife (*Rex* v. *Mansfield*, 2 Str. 1040; Burr. S. C. 76). But where a woman and her daughter were removed as "Mary, the wife of Samuel Bennett, and her daughter," to Higher Walton, and that was adjudged to be "their" last legal settlement, the court held it to be sufficient, as it would be presumed that it was the husband's settlement (*Rex* v. *Higher Walton*, Burr. S. C. 162; S. P. *Rex* v. *Yspytty*, 4 M. & S. 52).

A boy of ten years of age was removed by himself, and the order merely adjudged that M. was the last legal settlement of his father, without saying anything of the son's settlement. The court held it to be bad and quashed it (*Rex* v. *Middleham*, Fol. 271). Children under seven years of age were removed by an order, which stated B. to be the place of their last legal settlement; it was objected that children of such tender years could not be removed without their parents unless it appeared upon the face of the order that their parents were dead; and also that the order should have adjudicated the settlement of the father and not of the children. The court held the order sufficient, saying that if the father had gained another settlement it was incumbent on the appellants to show it (*Rex* v. *Bucklebury*, 1 T. R. 164). A woman and her illegitimate child, born in 1842, were removed to Atherton, and the order adjudged that to be

REMOVAL—*The Order of Removal—continued.*

Sect. 1.

Note.

the place of "their" last legal settlement. This was holden to be sufficient, although it was objected that the child had the settlement of his mother merely until he should be sixteen years of age, and this order would thereafter be evidence that he was settled in Atherton generally (*Reg.* v. *Shipston-on-Stour*, 6 Q. B. 119; 13 L. J. M. C. 128).

Signing and sealing of order.

The order must be under the hands and seals of the justices making it, but an impression made with ink by a wooden block is a sufficient sealing (*Reg.* v. *St. Paul's, Covent Garden*, [1845] 7 Q. B. 232; 14 L. J. M. C. 109; 9 Jur. 442), and the Christian names of the justices may be abbreviated (*Reg.* v. *Worthenbury*, 7 Q. B. 555; 14 L. J. M. C. 144; 2 N. S. C. 13; 9 Jur. 510).

REMOVAL—ABANDONMENT OF ORDER.

Formerly, the overseers of the removing parish might abandon the order of removal—and take back the pauper if he had been removed—even after notice of appeal given, and after the removal of the pauper (*Reg.* v. *Yorks. W. R. JJ.*, 2 Q. B. 705; 11 L. J. M. C. 57), provided it were before the entry of the appeal (*Rex* v. *Llanrhydd*, Burr. S. C. 358; *Rex* v. *Diddlebury*, 12 East, 359). This power is now enlarged, and is regulated by the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 8. (See note thereto.)

If justices make an order improvidently they may supersede it (*Pancras* v. *Rumbold*, 1 Str. 6). This was formerly frequently done, but now that there is a statutory power of abandonment of the order by the guardians, the practice has become obsolete.

An order, however, could not be superseded by the justices who made it after the pauper has been removed, and an appeal against the order entered (*Reg.* v. *Middlesex*, 11 A. & E. 809; 3 P. & D. 459; 9 L. J. M. C. 59; 4 Jur. 915; *Reg.* v. *Brighthelmstone*, 3 Q. B. 342; 2 G. & D. 88; 6 Jur. 336).

REMOVAL—SUSPENSION OF THE ORDER.

The statutes relating to the suspension of an order of removal and the recovery of the costs of maintenance during such suspension, and the other incidents of such suspension, are the Poor Removal Act, 1795 (35 Geo. 3, c. 101), s. 2; the Poor Law (Settlement and Removal) Act, 1799 (49 Geo. 3, c. 124); the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 84; the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 10; the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 8; and the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 26. (See notes thereto, especially notes to 35 Geo. 3, c. 101, s. 2, *post.*)

REMOVAL—NOTICE OF CHARGEABILITY AND GROUNDS OF REMOVAL.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 79, as amended by the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 2, and modified by the Union Chargeability Act, 1865 (27 & 28 Vict. c. 79), ss. 2, 3, 4, no pauper is to be removed until twenty-one days after service upon the guardians of the union or parish of settlement of a notice of chargeability of the pauper,

REMOVAL—*Notice of Chargeability and Grounds of Removal—continued.*

accompanied by a copy of the order of removal, and by a statement of the grounds of removal, including the particulars of the settlement relied upon in support thereof. (See notes to those sections, *post.*) Sect. 1. Note.

REMOVAL—THE REMOVAL.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 79, as amended by the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 2, and modified by the Union Chargeability Act, 1865 (27 & 28 Vict. c. 79), a pauper cannot be removed until twenty-one days after the notice of chargeability, with a copy or counterpart of the order of removal, and a statement of the grounds of removal, have been sent to the guardians of the opposite union or parish, unless such guardians agree to submit to the order; and by sect. 9 of the Poor Law Procedure Act, 1848, if within such period of twenty-one days a copy of the depositions shall be applied for, the pauper shall not be removed until after the expiration of a further period of fourteen days after the sending of such copy. Time of removal.

A pauper was not removed for a year after the making of the order. The court held this to be no objection, unless it appeared that the circumstances of the pauper had since been altered (*Rex* v. *Llanwinio*, 4 T. R. 473). An order of removal was appealed against and confirmed, subject to a case for the opinion of the Court of Queen's Bench; but the overseer of the respondent parish, not waiting for the decision of the latter court, removed the pauper to the appellant parish, and for this was indicted: the court, upon demurrer, held the indictment bad, as it did not state that any fraud or menace was made use of in the removal (*Reg.* v. *Cooper*, 18 L. J. M. C. 16; 3 N. S. C. 346; 13 Jur. 99).

A pauper cannot be removed to an extra-parochial place (*Bridewell* v. *Clerkenwell*, 2 Salk. 468), or to a place for which overseers cannot be appointed, and an order adjudicating such a place to be his place of settlement is bad (*Rex* v. *Durham*, Burr. S. C. 36; *Rex* v. *Tamworth*, Cald. 28). To what place.

If a settlement be gained in a township which afterwards ceases to be a township and overseers are no longer appointed for it, the settlement in that place is lost, and the pauper cannot be removed to it (*Rex* v. *Saighton-on-the-Hill*, 2 B. & Ald. 102).

A pauper who had gained a settlement in Crowland afterwards hired and served for a year in that part of Deeping Fen which had been given by Act of Parliament to the trustees for the drainage, and by the Act it was provided that all persons inhabiting on this part of the fen who could not maintain themselves should be maintained by the trustees, and not become chargeable to the parish; overseers had formerly been appointed for Deeping Fen, but none since 1810. The pauper, in 1827, becoming chargeable to Spalding was removed to Crowland, as the place of his last legal settlement: but the court held this to be wrong, as either the trustees, or the parish in which their part of the fen was situate, were bound to maintain the pauper (*Rex* v. *Crowland*, 8 B. & C. 711).

A pauper was born at Oakmere, at a time when it was extra-parochial, and no overseer appointed: afterwards it was made a township by Act of Parliament, and overseers appointed for it; the

REMOVAL—*The Removal—continued.*

Sect. 1.

Note.

pauper, becoming chargeable, was removed to it as the place of his settlement by birth. The court held that he could not be removed to it as the place of his settlement, for it was no township at the time of his birth and the statute had not the effect of conferring a settlement upon him (*Rex* v. *Oakmere*, 5 B. & Ald. 775).

The parish of Hales Owen, which consisted of thirteen townships, and formerly supported its poor in common, was in the year 1832 separated, and overseers appointed for each of the townships respectively; a pauper, who before this separation had been born in the parish workhouse, which was situated in the township of Hales Owen (one of the townships of which the parish of the same name consisted), was removed to that township, as the place of her birth settlement. The court held that this could not legally be done, as she had in fact no longer any settlement by birth (*Reg.* v. *Tipton*, 3 Q. B. 215; 11 L. J. M. C. 89; 2 G. & D. 92; 6 Jur. 760; S. P. *Reg.* v. *Ruabon*, 22 J. P. 784; *Reg.* v. *Hunnington*, 5 Q. B. 273; 13 L. J. M. C. 24; *Reg.* v. *Acton*, 8 Q. B. 108; 15 L. J. M. C. 21; 10 J. P. 150).

But where two parishes, A. and B., perfectly distinct, were united by Act of Parliament for all purposes whatsoever, except in matters ecclesiastical, and a pauper who had been settled in A. before the Act was afterwards removed to the united parishes of A. and B.: the court held that he was properly removed, and distinguished this from the case of *R.* v. *Tipton*, *supra* (*Reg.* v. *St. Martin, New Sarum*, 9 Q. B. 241; 15 L. J. M. C. 123; 2 N. S. C. 416; 10 Jur. 594).

The Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), made no change in the law of settlement, and it is still the law that when a parish consisting of several townships has maintained its own poor and afterwards overseers are appointed for the several townships, the old parish is, for the purposes of settlement, destroyed; and a settlement gained in it by birth in one of the townships before the appointment of separate overseers, is wholly lost, and the pauper does not acquire a fresh settlement in the particular township (*Stourbridge Union* v. *Droitwich Union*, L. R. 6 Q. B. 769; 40 L. J. M. C. 186; 25 L. T. (N. S.) 411).

The same effect follows upon the division of a parish by the operation of the Local Government Act, 1894. By the operation of sect. 1 (3) of that Act the old parish of Dorking was divided into two parishes, Dorking urban and Dorking rural, each with separate overseers and separately maintaining its own poor. A pauper whose birth settlement before such division was in the old parish of Dorking was ordered to be removed to the Dorking union, and adjudged to be settled in the parish of Dorking. It was held, following the above decisions, that by the division of the old parish through the operation of the Local Government Act, 1894, the old parish had been destroyed for poor-law purposes and the pauper had lost his settlement, and the order for removal was therefore bad (*St. Saviour's Union* v. *Dorking Union*, [1898] 1 Q. B. 594).

Who to receive the paupers.

By the Poor Relief Act, 1691 (3 Wm. & M. c. 11), s. 9, the churchwardens or overseers of the parish or town to which persons should be removed under that Act were required to receive them, and if they refused to receive the paupers they might be indicted at the option of the prosecutors (*Rex* v. *Davis*, Say, 163).

II. Provided always, that all such persons who think themselves aggrieved by any such judgment of the said two justices, may appeal to the justices of the peace of the said county at their next quarter sessions, who are hereby required to do them justice according to the merits of their cause.

Sect. 2.

Persons aggrieved may appeal to the quarter sessions.

REMOVAL—*The Removal—continued.*

Sect. 1.

Note.

By the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 7, the delivery of any pauper under any warrant of removal, directed to the overseers of any parish, at the workhouse of such parish or of any union to which such parish belongs, to any officer of such workhouse, shall be deemed the delivery of such pauper to the overseers of such parish.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 2, paupers removed under an order obtained by guardians are to be received by the guardians of the union or parish to which the pauper is removed in like manner and subject to such incidents as in the cases of removals obtained by overseers before that Act.

A *mandamus* will not be granted requiring union or parish officers to receive a pauper in obedience to an order of removal. The proper course is by indictment (*Downton Overseers, Ex parte*, 8 E. & B. 856; 27 L. J. M. C. 281.

Sect. 2.

Note.

By the Poor Relief Act, 1691 (3 Wm. & M. c. 11), s. 9, a similar right of appeal is given in respect of the settlements established by that Act.

Appeal.

By 8 & 9 Will. 3, c. 30, s. 6, the appeal is to be brought to the sessions for the county, &c., wherein the place lies from which the poor person is removed.

By the Poor Relief Act, 1722 (9 Geo. 1, c. 7), s. 8, reasonable notice is to be given of the appeal.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 79, 81, notice of chargeability must be sent to the guardians of the union to which the pauper is to be removed, and grounds of appeal must be delivered with the notice of appeal, or within fourteen days before the holding of the sessions.

By the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 9, notice of appeal must be given within twenty-one days, or in certain cases within an additional fourteen days beyond the twenty-one days, after notice of chargeability has been received. The effect of which is that the appeal, instead of being necessarily brought to the "next sessions," must be brought to the "next practicable sessions" (see *Reg.* v. *Surrey JJ.*, 3 D. & L. 343; 2 N. S. C. 155; 10 Jur. 72).

Costs of appeals.

By 8 & 9 Will. 3, c. 30, s. 3, quarter sessions may award costs upon appeals against removal orders. A similar provision is contained in the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 82, and by the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 5, a general power is given to quarter sessions to award costs upon any appeals. Also by the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 5, and the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 6, when frivolous or vexatious grounds of

Sect. 2.

removal or appeal have been sent, the sessions may award the costs to the opposite side of disputing the same.

Note.

[The cases which are now of practical value relative to appeals against removal orders are for the most part collected and noted under the above-mentioned statutes. The following cases appear to be more conveniently mentioned here.]

Who may bring and defend appeals.

The pauper himself may appeal against an order for his removal, as being a party aggrieved by it (*Rex* v. *Hartfield*, Carth. 222; Comb. 478). But no individual parishioner can appeal; the parishioners are represented by the guardians or overseers, and they alone can appeal (*Reg.* v. *Colbeck*, 12 A. & E. 161; 3 P. & D. 488). By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), ss. 2, 3, guardians of unions obtaining an order of removal may defend the same, and guardians of unions upon whom it shall be made may appeal against it; and by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 25, guardians of parishes may be authorized by the Local Government Board to do the same.

No appeal till service of notice of chargeability.

If no notice of chargeability have been sent with the order to the union or parish of settlement, there can be no appeal, or if an appeal be entered it must be dismissed; for until the service of such notice, the union, &c., to which the pauper is ordered to be sent, is not aggrieved (*Reg.* v. *Shrewsbury, Recorder of*, 1 E. & B. 711; 22 L. J. M. C. 98; 17 J. P. 503).

Refusal of justices to allow entry of appeal.

If guardians or overseers have a right to appeal against an order of removal, and the justices at sessions refuse to allow them to enter it, or, if entered, refuse to try it, the Queen's Bench Division may grant a *mandamus* to the justices to enter continuances and hear the appeal. But the application must be made in the next term after the hearing has been refused (*Reg.* v. *Richmond, Recorder of*, E. B. & E. 253; 27 L. J. M. C. 197; 4 Jur. (N. S.) 456; 22 J. P. 674). A person who induces quarter sessions to act upon an objection (which turns out to be ill-founded) and to refuse to hear an appeal, and substantially litigates the point up to the time of cause being shown against a rule which had been obtained for a *mandamus* to the sessions to hear the appeal, will have to pay the costs of the rule, though he does not actually show cause against the rule (*Reg.* v. *Birmingham*, [1875] 44 L. J. M. C. 48).

The general rule that application for a writ of *mandamus* to the quarter sessions to enter continuances and hear an appeal must be made not later than the term following the sessions at which the refusal was made, does not apply to an application to remove an order of sessions touching the removal of a pauper for the purpose of getting it quashed (*Reg.* v. *Brecknockshire*, 42 L. J. M. C. 135).

Power of sessions on appeal.

The sessions on appeal can only quash or confirm the order of removal (*Rex* v. *Oswell and Woking*, 2 Salk. 472); they cannot adjudge the pauper to be settled in some third parish or union (*Rex* v. *Colliton*, Carth. 221; *Rex* v. *Amner*, 2 Salk. 475); or make a new order of any kind (*Rex* v. *Milverton*, 2 Bott., 6th ed., pl. 928).

If the justices be equally divided, they must adjourn the appeal to the next sessions, and let it then be reheard and decided (*Rex* v. *Westmoreland*, 2 Sess. Cas. 193; *Bodmin* v. *Warlington*, 2 Bott., 6th ed., pl. 983); or they may adjourn it for the purpose of considering their judgment (*Rex* v. *King's Langley*, 2 Salk. 605). The chairman has no casting vote; and where the justices at sessions, including the chairman, were equally divided, and the

Sect. 3.

Persons going to work in harvest.

III. Provided also, that (this Act notwithstanding) it shall and may be lawful for any person or persons to go into any county, parish, or place, to work in time of harvest, or at any time to work at any other work, so that he or they carry with him or them a certificate from the minister of the parish, and one of the churchwardens, and one of the overseers for the poor for the said year, that he or they have a dwelling-house or place,

---

Sect. 2.

Note.

chairman, with the consent of the other justices, gave a casting vote in favour of the order, and the order was thereupon confirmed, —the court held it to be irregular; but it also appearing that this being objected to on the next day, and the matter being argued, the justices, not entirely the same as on the preceding day, determined to adhere to their previous decision,—the court held the irregularity to be cured, for they could not assume that the decision on the second day was not upon the merits (*Reg.* v. *Fladbury*, 10 A. & E. 706). The justices are not bound to give any reason for their judgment (*South Cadbury* v. *Braddon*, 2 Salk. 607). The judgment may be altered at any time during the sessions (*Battersea* v. *West Ham*, 5 Mod. 396; *St. Andrew, Holborn*, v. *St. Clement Danes*, 2 Salk. 494, 606).

FINALITY OF JUDGMENT OF SESSIONS.

By the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 7, the judgment of the sessions, upon appeal against an order of removal, is final, and cannot be reviewed in any court by means of a writ of *certiorari* or *mandamus* or otherwise, in the following cases: namely, where it is (1) Upon the sufficiency and effect of the grounds of removal; (2) upon the sufficiency and effect of the grounds of appeal; (3) upon the sufficiency and effect of the notice of chargeability; (4) upon the sufficiency and effect of the copy or counterpart of the order of removal sent to the appellant parish; (5) upon the amending or refusing to amend the order of removal or the grounds of removal or of appeal.

A case cannot now be stated by the sessions upon any of the above grounds for the consideration of the High Court, and the High Court has no jurisdiction to review the decision of the sessions upon a case so stated by the sessions upon any of the above grounds (*Reg.* v. *Ruyton-of-the-Eleven-Towns*, 1 B. & S. 534; 30 L. J. M. C. 229; 7 Jur. (N. S.) 967).

In any other case, such as a point of law arising in the proof of a settlement by either party, or the like, the quarter sessions may grant a case for the opinion of the Queen's Bench Division (*Reg.* v. *Chantrell*, L. R. 10 Q. B. 587; 44 L. J. M. C. 94; 23 W. R. 707). But it is in the discretion of the sessions whether or not they will grant a case, and if they refuse, there is no means of compelling them (*Reg.* v. *Walsall*, 3 Q. B. D. at p. 473, *per* Cockburn, C.J.). If, however, the justices have determined an appeal subject to a case, a *mandamus* may in some instances be granted ordering them to state the case (*Rex* v. *Pembrokeshire JJ.*, 2 B. & Ad. 391; *Rex* v. *Effingham, Earl of*, *ib.* 393 n.).

By the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 11, a case for the Queen's Bench Division may be stated by consent, or by sect. 12 the proceedings may be referred to arbitration.

Sect. 3.

in which he or they inhabit, and hath left wife and children, or some of them there (or otherwise, as the condition of the persons shall require) and is declared an inhabitant or inhabitants there; and in such case, if the person or persons shall not return to the place aforesaid, when his or their work is finished, or shall fall sick or impotent whilst he or they are in the said work, it shall not be accounted a settlement in the cases abovesaid; but that it shall and may be lawful for two justices of the peace to convey the said person or persons to the place of his or their habitation, as aforesaid, under the pains and penalties in this Act prescribed. And if such person or persons shall refuse to go, or shall not remain in such parish where they ought to be settled, as aforesaid, but shall return of his own accord to the parish from whence he was removed; it shall and may be lawful for any justice of the peace of the city, county, or town corporate where the said offence shall be committed, to send such person or persons offending to the house of correction, there to be punished as a vagabond, or to a public workhouse in this present Act hereafter mentioned, there to be employed in work or labour. And if the church-wardens and overseers of the poor of the parish to which he or they shall be removed, refuse to receive such person or persons, and to provide work for them, as other inhabitants of the parish, any justice of peace of that division may and shall thereupon bind any such officer or officers, in whom there shall be default, to the assizes or sessions, there to be indicted for his or their contempt in that behalf.

[Repealed by the S. L. R. Act, 1887.]

Corporations or workhouses in the cities of London, and West-minster, Middlesex, and Surrey.

IV. And for the further redress of the mischiefs intended to be hereby remedied, be it enacted by the authority aforesaid, that from henceforth there be, and shall be, one or more corporation or corporations, workhouse or workhouses within the cities of London and Westminster, and within the boroughs, towns, and places of the county of Middlesex and Surrey, situate, lying, and being within the parishes mentioned in the weekly bills of mortality, consisting of a president, a deputy to the president, and a treasurer; and that the Lord Mayor of the city of London for the time being be president of the corporation or corporations, workhouse or workhouses within the said city, and the assistants to be the aldermen of the said city of London for the time being, and fifty-two other citizens, to be chosen by the common council of the said city. And that the said president and assistants, or the major part of them, shall and may elect a deputy president and treasurer, and all other necessary officers hereby constituted and authorized to execute the powers and offices by this Act appointed; and that upon the vacancy by death, or otherwise, of any assistant, the power to elect in their rooms be in the said common council; and the election of the deputy president, or treasurer, and all other officers, in the said president and major part of the assistants as aforesaid; and that a president, a

Sect. 4.

deputy president, a treasurer, and assistants, be nominated and appointed by the Lord Chancellor, or Lord Keeper of the Great Seal of England for the time being, out of the most fit persons inhabiting in the city of Westminster, or the liberties thereof, for the corporation or corporations, workhouse or workhouses within the same.

[Repealed by the S. L. R. Act, 1863.]

President, deputy president, treasurer, and assistants for Middlesex and Surrey, how to be elected.

V. And for the said places within the weekly bills of mortality in the said counties of Middlesex and Surrey respectively, there shall be elected and chosen by the major part of the justices of the peace for the said counties in their respective quarter sessions assembled, out of the most able and honest inhabitants and freeholders of every of the said counties of Middlesex and Surrey respectively, a president, a deputy president, a treasurer, and assistant for the corporation or corporations, workhouse or workhouses of the places aforesaid in Middlesex and Surrey; and that upon the vacancy by death, or otherwise, of any of the presidents, deputy presidents, treasurers or assistants in the city of Westminster, and places aforesaid in Middlesex and Surrey, City of Westminster. *the power to elect others in their rooms be in the major part of the respective justices of peace, who, in their general quarter sessions from time to time, shall accordingly supply such vacant places. And that at every quarter sessions they shall require and take an account in writing of all the receipts, charges, and disbursements of the officers and treasurer of such corporation or corporations, workhouse or workhouses, how, and how many poor people have been employed and set to work in the year last past, and what stock there was, and is remaining; which president, deputy president, and treasurer for the time being respectively, shall for ever hereafter, in name and fact, be bodies politic and corporate in law, to all intents and purposes, and shall have a perpetual succession, and may sue or plead, or be sued and impleaded by the name of the president and governors for the poor of the respective places aforementioned, in all courts and places of judicature within this kingdom, and the dominion of Wales, and the town of Berwick-upon-Tweed; and by that name every of the said corporations shall and may, without licence in mortmain, purchase or receive any lands, tenements, or hereditaments, not exceeding the yearly value of three thousand pounds per annum, of the gift, alienation, or devise of any person or persons, who are hereby, without further licence, enabled to give the same, and any goods, chattels, or sums of money whatsoever, to the use, intent, and purposes hereafter limited and appointed; and that each respective corporation, or any seven of them, shall have hereby power and authority from time to time, to meet and keep courts for the ends and purposes in this Act expressed, at such time and place as shall be appointed by the said president, his deputy, or the treasurer, who are hereby required, upon the desire of any four of the said corporation, at any time to cause*

Sect. 5.

a court to be warned accordingly, and shall have hereby authority from time to time to make and appoint a common seal for the use of the said corporation.

[Repealed by the S. L. R. Act, 1863.]

The powers of the said president and governors of the said corporations.

VI. And it is further enacted by the authority aforesaid, that it shall and may be lawful to and for the said president and governors of the said corporations for the time being, or any two of them, or to or for any person authorized and appointed by them, or any two of them, from time to time, to apprehend, or cause to be apprehended, any rogues, vagrants, sturdy beggars, or idle and disorderly persons within the said cities and liberties, places, divisions, and precincts, and to cause them to be kept and set to work in the several and respective corporations or workhouses; and it shall and may be lawful for the major part of the justices of peace in their quarter sessions, to signify unto His Majesty's Privy Council the names of such rogues, vagabonds, idle and disorderly persons, and sturdy beggars, as they shall think fit to be transported to the English plantations; and upon the approbation of His Majesty's Privy Council to the said justices of peace signified, which persons shall be transported, it shall and may be lawful for any two or more of the justices of the peace, them to transport, or cause to be transported, from time to time, during the space of three years next ensuing the end of this present sessions of Parliament, to any of the English plantations beyond the seas, there to be disposed in the usual way of servants, for a term not exceeding seven years.

[Repealed by the S. L. R. Act, 1863.]

A stock for supply of the work, how to be provided in London, Westminster, Middlesex, and Surrey.

VII. And be it further enacted by the authority aforesaid, that if the president and governors of any of the said corporations shall certify, under their common seal, their want and defect either of a present stock for the foundation of the work, or for supply thereof for the future, and what sum or sums of money they shall think fit for the same, to the common council of the said city of London, and the burgesses and justices of peace in their quarter sessions of the said city of Westminster, and the liberties thereof, or the justices of the respective counties of Middlesex and Surrey, assembled in either quarter sessions, that thereupon the common council of the said city of London, the burgesses of the said city of Westminster, and the justices of peace of the said cities and counties in their quarter sessions assembled, are hereby required, from time to time, to set down and ascertain such competent sum and sums of money for the purposes aforesaid, not exceeding one year's rate from time to time usually set upon any person, for or towards the relief of the poor, and the same to proportion out upon the several wards, precincts, counties, divisions, hundreds, and parishes, as they shall think fit; and thereupon the aldermen, deputies, and common councilmen of every ward in the city of London, and burgesses and justices of the peace of the

Sect. 7.

city of Westminster, and the liberties thereof, and justices of the peace of the said counties of Middlesex and Surrey, shall have power and authority, and are hereby required, equally and indifferently, according to the proportions appointed, as aforesaid, for the several wards, precincts, cities, and parishes as aforesaid, to tax and rate the several inhabitants within the said respective wards, precincts, and parishes, as well within liberties as without; with which tax, if any person or persons find him or themselves aggrieved, supposing the same to be unequal, he or they shall and may make their complaint known to the justices of the peace at the next open sessions, who shall take such final order therein, as in like cases is already by the law provided.

[Repealed by the S. L. R. Act, 1863.]

Churchwardens, &c., to collect the assessments.

VIII. And it is further enacted by the authority aforesaid, that it shall and may be lawful to and for any alderman of the city of London, or his deputy, or the burgesses and justices of peace of the city of Westminster, and the liberties thereof, or any two or more of them, or any two justices of peace of the respective counties of Middlesex and Surrey, by their warrant under their hands and seals, to authorize the churchwardens or overseers for the poor within the places and parishes aforesaid, to demand, gather, and receive of every person and persons, such sum and sums of money as shall be assessed upon them by virtue of the taxations and contributions aforesaid; and for default of payment within ten days after demand thereof made, or notice in writing left at the dwelling-house or lodging of every person so assessed, to levy the same by distress and sale of goods of every such person, and after satisfaction made, to restore the surplusage to the party so distrained.

[Repealed by the S. L. R. Act, 1863.]

Stocks formerly in London for the relief of the poor, how to be paid.

IX. And be it enacted by the authority aforesaid, that all stocks raised for the relief and employment of the poor in the city of London and liberties thereof, which were in the hands of a corporation heretofore appointed in the said city for that service, or in the hands of any other person or persons whatsoever, before the nine-and-twentieth day of September, which was in the year of our Lord one thousand six hundred and sixty, commonly called the Feast of St. Michael the Archangel, or at any time since, together with all the arrears of money formerly allotted for that service, or legacies given to the same end, shall be payable to the treasurer of the corporation or corporations, workhouse or workhouses, to be established by this present Act; who are hereby authorized and empowered by themselves, or their officers thereunto by them deputed, to collect, gather, receive and recover the said money and legacies, which shall be due and in arrear, as aforesaid; with which said arrears, and every part and parcel thereof, the corporation or corporations aforesaid by this Act made, constituted, and established, is and shall be hereby invested and interested for

Sect. 9.

the execution of the service hereby enjoined them; and all those that have had or now have any of the said stock in their or any of their hands, shall be accountable to the said treasurer, or to those that shall be appointed by the said corporation or corporations, or any seven or more of them, to take the said account.

[Repealed by the S. L. R. Act, 1863.]

Expenses allowed to the former corporation.

X. Provided always, and be it enacted by the authority aforesaid, that there shall be a full allowance of all just and necessary expenses, which have been laid out by the said former corporation for the relief of the said poor, and the carrying on of the said service since the time before expressed.

[Repealed by the S. L. R. Act, 1863.]

Power to make orders and bye-laws.

XI. And it is further enacted by the authority aforesaid, that the respective president and governors, or any seven of them, shall have power from time to time to make and constitute orders and bye-laws, for the better relieving, regulating, and setting the poor to work, and the apprehending and punishing of rogues, vagabonds, and beggars within the cities, liberties, and places aforesaid, that have not wherewith to maintain themselves, and for other the matters aforesaid.

[Repealed by the S. L. R. Act, 1863.]

XII. Provided the said orders and bye-laws shall, from time to time, be presented to the justices of peace in their quarter sessions assembled, to be allowed by the major part of them, and confirmed by order of the said court.

[Repealed by the S. L. R. Act, 1863.]

Power to choose and entertain officers.

XIII. And it is further enacted by the authority aforesaid, that the president and governors of any the said corporation or corporations, workhouse or workhouses, or any fourteen or more of them, being assembled together, shall have hereby power to choose and entertain all such officers, and other as shall be needful to be employed in and about the premises; and them, or any of them, from time to time to remove, as they shall see cause, and upon the death or removal of them, or any of them, to choose others in their places, for the carrying on of the work, and to make and give such reasonable allowances unto them, or any of them, out of the stock and revenue belonging to the said corporation or workhouse, as they shall think fit.

[Repealed by the S. L. R. Act, 1863.]

All sheriffs, &c., to be assisting to the said corporation and their officers.

XIV. And it is further enacted by the authority aforesaid, that all sheriffs, bailiffs, constables, and all other officers and ministers of justice, shall be aiding and assisting to the said corporation or corporations, and to all such officers as shall be

employed by them, or any of them, in the execution or performance of the said service. Sect. 14.

[Repealed by the S. L. R. Act, 1863.]

Constables, how made in default of holding court leets.

XV. And whereas the laws and statutes for the apprehending of rogues and vagabonds have not been duly executed, sometimes for want of officers, by reason lords of manors do not keep court leets every year for the making of them; be it therefore enacted by the authority aforesaid, that in case any constable, headborough, or tythingman, shall die, or go out of the parish, any two justices of the peace may make and swear a new constable, headborough, or tythingman, until the said lord shall hold a court, or until next quarter sessions, who shall approve of the said officers so made and sworn as aforesaid, or appoint others, as they shall think fit. And if any officer shall continue above a year in his or their office, that then in such case the justices of peace in their quarter sessions may discharge such officers, and may put another fit person in his or their place, until the lord of the said manor shall hold a court as aforesaid.

[Repealed by the Parish Constables Act, 1872 (35 & 36 Vict. c. 92), s. 13.]

39 Eliz. c. 4. 1 Jac. c. 7.

Apprehending rogues and vagabonds;

how rewarded.

XVI. And whereas for want of some encouragement to such person or persons as shall apprehend rogues, vagabonds, and sturdy beggars, the statutes made in the nine-and-thirtieth year of Queen Elizabeth, and first year of King James, in which statutes the constable, headborough, or tythingman of every parish, that shall not apprehend such rogues, vagabonds, and sturdy beggars, which shall pass through or be found in their said parish unapprehended, such constable, headborough, or tythingman shall forfeit, as in the said statutes is expressed, are not duly executed; be it therefore enacted by the authority aforesaid, that it shall and may be lawful to and for any justice of the peace, to whom any rogue, vagabond, or sturdy beggars so apprehended shall be brought, to reward any person or persons that shall apprehend any rogue, vagabond, or sturdy beggar, by granting unto such person or persons an order or warrant under his hand and seal to the constable, headborough, or tythingman of such parish where such rogue, vagabond, or sturdy beggar passed through unapprehended, requiring him to pay such person or persons the sum of two shillings for every rogue, vagabond, or sturdy beggar, which shall be so apprehended; and if such constable, headborough, or tythingman refuse or neglect to pay the two shillings, as aforesaid, that then the said justices of peace, or any other justice or justices of peace, shall proceed against any such constable, headborough, or tythingman, according to the said statutes; and to compel him to pay such sum of money, as he hath forfeited by the statute of the first year of King James aforesaid, and to allow out of the said forfeiture the said two

Sect. 16.

shillings, and such reasonable means and allowance for loss of time, as they shall think fit.

[Repealed by the Parish Constables Act, 1872 (35 & 36 Vict. c. 92), s. 13.]

Rogues and vagabonds apprehended at the confines of any county, how to be dealt with.

XVII. And if any person or persons shall apprehend any rogue, vagabond, or sturdy beggar at the confines of any county, which passed through any parish of another county unapprehended, it shall be lawful for such person or persons to go to some justice of peace of that county, through which such rogue, vagabond, or sturdy beggar passed unapprehended, who is hereby required (upon a certificate under the hand of some justice of peace of the county where such rogue, vagabond, or sturdy beggar was so apprehended) to grant his order or warrant under his hand and seal, requiring the said constable, headborough, or tythingman, to pay unto such person or persons, as aforesaid, the sum of two shillings; which if he shall refuse or neglect to do, then such justice is hereby required to proceed against such constable, headborough, or tythingman, and to cause him to pay ten shillings, or so much thereof, for his expenses and loss of time, as the said justice of peace shall think fit, to such person or persons, which he hath forfeited by the statute aforesaid, made in the nine-and-thirtieth year of the Queen.

[Repealed by the Parish Constables Act, 1872 (35 & 36 Vict. c. 92), s. 13.]

Power to make rates.

XVIII. And whereas constables, headboroughs, or tythingmen are or may be at great charge in relieving, conveying with passes, and in carrying rogues, vagabonds, and sturdy beggars to houses of correction, or the workhouses herein mentioned, and as yet have no power by law to make rates to reimburse themselves; be it therefore enacted by the authority aforesaid, that all constables, headboroughs, and tythingmen so out of purse as aforesaid, together with the churchwardens and overseers of the poor, and other inhabitants of the said parish, shall hereby have power and authority to make an indifferent rate, and to tax all the occupiers of lands and inhabitants, and all other persons chargeable by the 43 Eliz. c. 2. *statute of the three-and-fortieth of Elizabeth, concerning the office and duty of overseers for the poor within the said parish; which rate being confirmed under the hands and seals of any two justices of peace, as aforesaid, the said constable, headborough, or tythingman shall have power, by warrant under the hands and seals of two justices of peace, to levy by distress and sale of the goods of any person or persons refusing to pay the same, rendering the overplus to the owner, if any shall be.*

[Repealed by the Parish Constables Act, 1872 (35 & 36 Vict. c. 92), s. 13.]

Putative fathers of bastard children running away;

XIX. And whereas the putative fathers and lewd mothers of bastard children run away out of the parish, and sometimes out

Sect. 19.

how to be proceeded against.

the county, and leave the said bastard children upon the charge of the parish where they are born, although such putative father and mother have estates sufficient to discharge such parish; be it therefore enacted by the authority aforesaid, that it shall and may be lawful for the churchwardens and overseers for the poor of such parish where any bastard child shall be born, to take and seize so much of the goods and chattels, and to receive so much of the annual rents or profits of the lands of such putative father or lewd mother, as shall be ordered by any two justices of peace as aforesaid, for or towards the discharge of the parish, to be confirmed at the sessions, for the bringing up and providing for such bastard child; and thereupon it shall be lawful for the sessions to make an order for the churchwardens or overseers for the poor of such parish, to dispose of the goods by sale or otherwise, or so much of them for the purposes aforesaid, as the court shall think fit, and to receive the rents and profits, or so much of them, as shall be ordered by the sessions as aforesaid, of his or her lands.

[Repealed by the S. L. R. Act, 1863.]

Persons sued for matters in this Act may plead the general issue.

XX. And if any person or persons shall be sued for any matter or thing which he shall do in execution of this Act, he may plead the general issue, and give the special matter in evidence; and if the verdict shall pass for the defendant, or if plaintiff be nonsuited, or discontinue his suit, the defendant shall recover treble damages.

[Repealed by the S. L. R. Act, 1887.]

Recital that certain counties are unable to reap the benefit of 43 Eliz. c. 2.

XXI. Whereas the inhabitants of the counties of Lancashire, Cheshire, Derbyshire, Yorkshire, Northumberland, the Bishopric of Durham, Cumberland, and Westmorland, and many other counties in England and Wales, by reason of the largeness of the parishes within the same, have not or cannot reap the benefit of the Act of Parliament made in the three-and-fortieth year of the reign of the late Queen Elizabeth for relief of the poor; therefore be it enacted by the authority aforesaid, that all and every the poor, needy, impotent, and lame person and persons within every township or village within the several counties aforesaid, shall, from and after the passing of this Act, be maintained, kept, provided for, and set on work within the several and respective township and village wherein he, she, or they shall inhabit, or wherein he, she, or they was or were last lawfully settled, according to the true intent and meaning of this Act; and that there shall be yearly chosen and appointed, according to the rules and directions in the said Act of the three-and-fortieth year of Queen Elizabeth mentioned, two or more overseers of the poor within every of the said townships or villages, who shall from time to time do, perform, and execute all and every the acts, powers, and authorities for the necessary relief of the poor within the said township or village, and shall

Regulations for choice of overseers for townships and villages in such counties.

Sect. 21. lose, forfeit, and suffer all such pains and penalties for non-performance thereof, as is limited, mentioned, and appointed in and by the said in part recited Act.

Sect. 21. Note.

This section has been holden to extend to all the counties of England and Wales, and its benefit is not confined to the counties therein specially mentioned (*Dolting* v. *Stokelaine*, Fol. 98; Fort. 219; *Clifton* v. *Churchman*, 1 Nol. 10; Andr. 314); and to an extra-parochial place, provided it were a township or village (*Rex* v. *Rufford*, 1 Str. 512; *Rex* v. *Denham*, Burr. S. C. 37; *Rex* v. *Welbeck*, 2 Str. 1143).

What is a township or village was often a question of some difficulty to determine. A township always has a constable appointed for it; and so indicative is that circumstance of the place being a township, that Buller, J., is reported to have said that wherever there is a constable there is a township (*Rex* v. *Horton*, 1 T. R. 374).

A vill or village, according to the common acceptation of the term, consists of a considerable number of dwelling-houses, adjoining to each other, or in the same immediate neighbourhood, and having usually a name by reputation. It must at least consist of more than two houses (*Rex* v. *Denham*, Burr. S. C. 37, *per* Lee, J.); otherwise, although it may formerly have been a village, yet it has ceased to be so (*Ib.*, *per* Page, J.). A place not called a village in the affidavits, which appeared to be a part of the old castle of Nottingham, was holden not to be a village within the meaning of the statute, although it consisted of upwards of twenty dwelling-houses, occupied by substantial householders (*Rex* v. *Standard Hill*, 4 M. & S. 378). Calling the district a "precinct" merely would not be sufficient (*Rex* v. *Severn and Arnold*, Say, 278). A place consisting of a capital messuage and three cottages inhabited by labourers as tenants to the occupier of the messuage was holden not to be a village within the meaning of the statute, although the sessions upon appeal had found and stated it to be so (*Rex* v. *Shower*, 3 Burr. 1391). But where in a case sent up for the opinion of the Court of King's Bench, the sessions expressly found and stated the place to be a vill by reputation, the court considered themselves bound by the finding of the sessions, although it appeared that the place consisted only of three houses (*Rex* v. *Ronton Abbey*, 2 T. R. 207; S. P. *Rex* v. *Eyford*, 4 Doug. 331; Cald. 542). The minster of Peterborough, being the area round the cathedral, was holden not to be a village within the meaning of this statute, although it consisted of sixty acres of land, having upwards of twenty-five dwelling-houses upon it (*Rex* v. *Peterborough JJ.*, Cald. 238).

Not only must the place for which it was sought to have overseers separately appointed be a township or village, but it was necessary to show that the parish in which it was situate could not collectively have the benefit of the statute of Elizabeth, which, however, did not mean that it was impossible to execute the statute within the whole parish collectively, but that it was inconvenient (*Rex* v. *Leigh*, 3 T. R. 746). And it was not necessary to prove that it was thus inconvenient at the time of the passing of this statute of Charles II.; if it had become so since, and were so at the time of applying to have overseers appointed to one of the townships, t would have been sufficient (*Ib.*). Where the sessions, on motion,

Sect. 22.

Proviso for the power of justices in such counties to raise money, &c., in such townships and villages.

43 Eliz. c. 2.

XXII. And that the justices of peace within the said counties shall have and enjoy such and the like powers and authorities to raise and levy monies, and to do and execute all and every such other act and thing whatsoever, within every township or village within the said county where they are justices, as is given, limited, and appointed unto and for them to do and execute within any parish or parishes, in and by the said Act made in the said three-and-fortieth year of the said late Queen Elizabeth, under such and the like pains and penalties for the non-performance of their duties; to be levied and disposed of as is nominated and expressed in the said Act.

Sect. 21.

Note.

ordered a parish to be thus divided, and the different townships afterwards acted upon it for forty years, the order of sessions then coming before the Court of King's Bench, that court held it to be bad, as it stated no inability in the parish to reap the benefit of the statute of Elizabeth; and it was said that the sessions had no authority to make such an order except on appeal (*Peart* v. *Westgarth*, 3 Burr. 1610; and see *Rex* v. *Newell*, 4 T. R. 266; *Rex* v. *Uttoxeter*, Doug. 346; *Reg.* v. *Marriott*, 12 A. & E. 35; 7 L. J. M. C. 95).

Two districts of which a parish consisted had jointly maintained their poor from 43 Eliz. to 13 Car. 2; they then agreed to separate so that separate overseers might be appointed, upon condition that the rateable property in the parish, whether situated in one or the other district, should be rated where the occupiers resided. *Held* that this showed that the parish, at the time of the agreement, could not reap the full benefit of the statute of Elizabeth, and that the appointment of overseers for the whole parish was bad (*Rex* v. *Walsall*, 2 B. & Ald. 157).

The above-mentioned decisions are now chiefly of historical interest, as by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 22, it is no longer lawful to appoint separate overseers for any township or village or other place, for which before the passing of that Act separate overseers had not been lawfully appointed. Every parish, however, constituted under the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), shall by sect. 6 of that Act, notwithstanding the prohibition in 7 & 8 Vict. c. 101, s. 22, be a parish for which an overseer shall be appointed; and parishes divided by the operation of the Local Government Act, 1894, become, by sect. 1 (3) of that Act, separate parishes as though they had been so constituted under the Divided Parishes and Poor Law Amendment Act, 1876, and an overseer may therefore be appointed for each part.

If after being separated, it becomes desirable, from decrease of population or other change of circumstances, that the different townships should again join in the maintenance of their poor, they may do so by agreement (*Rex* v. *Palmer*, 8 East, 416; *Lane* v. *Cobham*, 7 East, 1). But the court will not compel this against the consent of any of the townships (*Rex* v. *Leigh*, 3 T. R. 746).

By the Poor Relief (No. 2) Act, 1819 (59 Geo. 3, c. 95), where a corporate town forms part of a parish, and separate overseers have been appointed for that part more than sixty years before the year 1819, the appointment shall be deemed valid (see *Rex* v. *Gordon*, 1 B. & Ald. 524).

Sect. 23.

Power of the justices to transport rogues and vagabonds.

XXIII. Provided always, and be it enacted by the authority aforesaid, that it shall and may be lawful for the justices of peace in any of the counties of England and Wales, in their quarter sessions assembled, or the major part of them, to transport or cause to be transported, such rogues, vagabonds, and sturdy beggars, as shall be duly convicted and adjudged to be incorrigible, to any of the English plantations beyond the seas.

[Repealed by the S. L. R. Act, 1863.]

Proviso for the Dean and Chapter of Westminster.

XXIV. Provided also, that neither this Act, nor any thing therein contained, shall extend to be, or be construed, expounded, or taken, to the prejudice or infringement of any of the franchises, rights, liberties, or privileges, heretofore granted by the Kings and Queens of this realm, His Majesty's royal predecessors, to the dean and chapter of the Collegiate Church of Saint Peter in Westminster.

The continuance of divers parts of this Act.

XXV. Provided always, that this Act, as to all the matters therein contained (excepting what relates unto the corporations mentioned and constituted thereby) shall extend and be in force until the nine-and-twentieth day of May one thousand six hundred sixty-five, and the end of the first session of the next Parliament then next ensuing, and no longer.

[Repealed by the S. L. R. Act, 1863.]

---

1 WILL. & MARY, Sess. 1, Chap. 18.

An Act for exempting their Majesties' Protestant Subjects dissenting from the Church of England from the Penalties of certain Laws.

[*Whole Act repealed by* 34 *&* 35 *Vict. c.* 48, *except sects.* 5, 15, *and so much of sect.* 8 *as specifies the service and offices from which certain persons are exempt.*]

Dissenters appointed officers, and scrupling oaths, &c., may act by deputy.

V. And . . . if any person dissenting from the Church of England as aforesaid shall hereafter be chosen or otherwise appointed to bear the office of high constable or petty constable, churchwarden, overseer of the poor or any other parochial or ward office, and such person shall scruple to take upon him any of the said offices in regard of the oaths or any other matter or thing required by the law to be taken or done in respect of such office, every such person shall and may execute such office or employment by a sufficient deputy by him to be provided that shall comply with the laws on this behalf. Provided always the said deputy be allowed and approved by such person [and*] persons in such manner as such officer or officers respectively should by law have been allowed and approved.

* * * *

* Or.

Sect. 8.

Teacher exempt from office.

VIII. And . . . every teacher or preacher in holy orders or pretended holy orders that is a minister, preacher, or teacher of a congregation that shall take the oaths herein required, and make and subscribe the declaration aforesaid, and also subscribe such of the aforesaid articles of the Church of England as are required by this Act in manner aforesaid shall be thenceforth exempted from serving upon any jury, or from being chosen or appointed to bear the office of churchwarden, overseer of the poor, or any other parochial or ward office, or other office in any hundred of any shire, city, town, parish, division, or wapentake.

* * * *

Disturbers of religious worship, recognizance; or in default, imprisoned; and on conviction, penalty 20*l*.

XV. Provided always . . . that if any person or persons at any time or times after the tenth day of June do and shall willingly and of purpose maliciously or contemptuously come into any cathedral or parish church, chapel, or other congregation permitted by this Act, and disquiet or disturb the same, or misuse any preacher, or teacher, such person or persons, upon proof thereof before any justice of peace by two or more sufficient witnesses shall find two sureties to be bound by recognizance in the penal sum of fifty pounds, and in default of such sureties shall be committed to prison, there to remain till the next general or quarter sessions, and upon conviction of the said offence at the said general or quarter sessions shall suffer the pain and penalty of twenty pounds [to the use of the King and Queen's Majesties, their heirs and successors*].

* * * *

POOR RELIEF ACT, 1691.

3 WILL. & MARY, CHAP. 11.†

An Act for the better Explanation and supplying the Defects of the former Laws for the Settlement of the Poor.

13 & 14 Car. 2, c. 12.

WHEREAS one Act of Parliament made in the thirteenth and fourteenth years of his late Majesty King Charles the Second, intituled an Act for the better relief of the poor of this kingdom (except what relates to the corporation therein mentioned and constituted thereby) was revived and continued with some alterations by one other Act made in the first year of the late King James the Second, and have been found [by experience‡] to be good and wholesome laws. . . .

1 Jac. 2, c. 17, s. 1, recited.

* Annexed to the original Act in a separate schedule.

† Made perpetual by 12 Anne, st. 1, c. 18. The numbering of the sections of this Act is that adopted in the Statutes of the Realm, such notation being that customarily cited by the courts in the cases noted under the various sections. In the Revised Statutes sect. 3 is noted as sect. 2, and sect. 10 is divided into two sections, 9 and 10.

‡ Interlined on the roll.

Sect. 2.

[*Sect.* 2 *continued* 13 *&* 14 *Car.* 2, *c.* 12, *and* 1 *Jac.* 2, *c.* 17. *Repealed by S. L. R. Act*, 1867.]

The note of settlement must be read in the church and registered in the poor's book.

III. But forasmuch as the said Acts are somewhat defective and doubtful for supplying and explaining the same, be it further provided and enacted by the authority aforesaid that the forty days' continuance of such person in a parish or town intended by the said Acts to make a settlement shall be accounted from the publication of a notice in writing which he or she shall deliver of the house of his or her abode, and the number of his or her family, if he or she have any, to the churchwarden or overseer of the poor, which said notice in writing the said churchwarden or overseer of the poor is or are hereby required to read, or cause to be read, publicly, immediately after divine service in the church or chapel of the said parish or town on the next Lord's Day, when there shall be divine service in the same. And the said churchwarden or overseer of the poor is or are hereby required to register or cause to be registered the said notice in writing in the book kept for the poor's accounts.

[Repealed by the S. L. R. Act, 1867.]

Soldiers, seamen, &c.

IV. Provided always and be it enacted that no soldier, seaman, shipwright, or other artificer or workman employed in their Majesties' service shall have any settlement in any parish, port town, or other town by delivery and publication of a notice in writing as aforesaid, unless the same be after dismission of such person out of their Majesties' service.

[Repealed by the S. L. R. Act, 1867.]

Churchwarden refusing to read notice.

V. And be it further enacted, that if any churchwarden or overseer of the poor shall refuse or neglect to read, or cause to be read, such notice in writing as aforesaid, in such manner, place, and time as aforesaid, he or they for every such offence (upon proof thereof by two credible witnesses upon oath before any justice of the peace for the same county, riding, or division, city, or town corporate, where complaint thereof shall be made), shall forfeit the sum of forty shillings to the use of the party grieved, to be levied by distress and sale of the offender or offenders' goods, by warrant under the hand and seal of any justice of the peace within the said jurisdiction respectively, to the constable of the parish or town where such offender or offenders dwell, the overplus, if any be, to be returned to the owner or owners; and for want of such sufficient distress the said justice shall commit him or them to the common gaol of the said county, city, or town corporate, there to remain without bail or mainprize for the space of one month; and if any churchwarden or overseer of the poor shall refuse or neglect to register, or cause to be registered, such notice in writing as aforesaid, he or they so offending, upon the like conviction, shall forfeit the sum of forty shillings to the use of the poor of the parish or town where such offender or offenders dwell, to be levied as aforesaid, the overplus, if any be,

to be returned to the owner or owners: and for want of sufficient distress, then the said justice shall commit such offender or offenders as aforesaid, for the time aforesaid.

Sect. 5.

[Repealed by the S. L. R. Act, 1867.]

VI. Provided always that ny person who shall come to inhabit in any town or parish *shall for himself and on his own account execute any public annua office or charge in the said town or parish during one whole year, or*] shall be charged with and pay his share towards the public taxes or levies of the said town or parish, then he shall be adjudged and deemed to have a legal settlement in the same though no such notice in writing be delivered and published as is hereby before required.

[Serving as officer. or] Paying parish duties, a settlement.

Sect. 6. Note.

The mode of settlement by serving an office was abolished by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 64, and the words in italics were repealed by the S. L. R. Act, 1867.

A settlement under this statute alone by payment of taxes might have been gained from 1690 until June 22nd, 1795.

By the Poor Removal Act, 1795 (35 Geo. 3, c. 101), s. 4, after the passing of that Act (June 22nd, 1795), no person could gain a settlement in a parish, &c., "by being charged with and paying his, her, or their share towards the public taxes or levies of the said parish, township, or place for or on account or in respect of any tenement or tenements not being of the yearly value of ten pounds." A settlement under the combined operation of these two statutes might have been gained by a tenant or owner from June 22nd, 1795, until June 22nd, 1825, and may still be gained by a person paying rates in respect of a tenement of which he is owner (*Gainsborough* v. *Worksop*, 37 J. P. 293).

By the Poor Relief (Settlement) Act, 1825 (6 Geo. 4, c. 57), s. 2 (which came into operation on June 22nd, 1825), "no person shall acquire a settlement in any parish, &c., by or by reason of settling upon, renting or paying parochial rates for any tenement, not being his or her own property, unless such tenement shall consist of a separate and distinct dwelling-house or building, or of land, or of both, *bonâ fide* rented by such person, in such parish or township, at and for the sum of 10*l.* a year at the least, for the term of one whole year; nor unless such house or building, or land, shall be occupied under such yearly hiring, and the rent for the same, to the amount of 10*l.*, actually paid for the term of one whole year at the least: provided always, that it shall not be necessary to prove the actual value of such tenement; anything in any Act or Acts, or any construction of or implication from any Act or Acts, or any usage or custom to the contrary notwithstanding."

By the Poor Relief (Settlement) Act, 1831 (1 Will. 4, c. 18), s. 2, "where the yearly rent shall exceed 10*l.*, payment to the amount of 10*l.* shall be sufficient for the purpose of gaining a settlement under 6 Geo. 4, c. 57."

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 66, no settlement can be gained by occupying a tenement unless the person occupying the same shall have been assessed to the poor rate, and shall have paid the same in respect of such tenement for one year.

A settlement cannot be gained by payment of parochial taxes

Sect. 6.

Note.

What occupation is necessary.*

unless there is also an occupation of the tenement for a year sufficient to satisfy the requisites of 6 Geo. 4, c. 57 (*Reg.* v. *Westbury-on-Trim*, 7 E. & B. 444; 26 L. J. M. C. 76; 3 Jur. (N. S.) 690). But an occupation sufficient to satisfy that statute is all that is necessary, inasmuch as 1 Will. 4, c. 18, s. 1, which was passed to rectify the omission in 6 Geo. 4, c. 57, permitting occupation by a sub-tenant instead of requiring exclusive personal occupation by the party hiring (see *Rex* v. *Ditcheat*, 9 B. & C. 176), applies only to settlements by yearly hiring, and not to settlements by payment of parochial taxes; and therefore a settlement may still be obtained by a person who hires a tenement for a year, but sub-lets the whole or a part, provided he is charged with and pays parochial taxes or rates in respect of it, and resides in the parish for forty days (*Rex* v. *Stoke Damerel*, 6 A. & E. 308; *Reg.* v. *St. Giles-in-the-Fields*, 7 E. & B. 205; 26 L. J. M. C. 55; 3 Jur. (N. S.) 55).

Sect. 2 of 1 Will. 4, c. 18, however, applies to settlements by payment of parochial rates as well as to settlements by renting and occupying a tenement; and therefore a person who hires and occupies a tenement for a whole year in conformity with 6 Geo. 4, c. 57, may gain a settlement by payment of parochial taxes, though he has not paid a whole year's rent, provided he has paid as much of the rent as amounts to 10*l.* (*Reg.* v. *Brighthelmstone*, 1 Q. B. 674; 1 G. & D. 54; 5 Jur. 506).

What rating and payment are necessary.

Payment of the parochial taxes for a whole year is not required by 3 Wm. & M. c. 11, s. 6; and, accordingly, a person who satisfies the requisites of 6 Geo. 4, c. 57, as to renting and occupation, may acquire a settlement by payment of parochial taxes if he is assessed to and pays the poor rate for a part only of the year during which he occupies the tenement, notwithstanding anything contained in 4 & 5 Will. 4, c. 76, s. 66 (*Reg.* v. *St. Mary Kalendar*, 9 A. & E. 626; 1 P. & D. 497).

It is a sufficient compliance with 3 Wm. & M. c. 11, s. 6, if the person occupying the tenement is rated to, and in fact pays a parochial tax or rate, although he is reimbursed by his landlord, or employers, or others (*Rex* v. *Axmouth*, 3 East, 383; *Rex* v. *Lower Heyford*, 1 B. & Ad. 75). But it is necessary that he shall be the person who actually pays the tax or rate in the first instance (*Rex* v. *Weobly*, 2 East, 68), and, in addition to his paying, it is also necessary that he should be actually the person charged or rated (*Rex* v. *St. John's, Southwark*, 1 Doug. 225).

It is not, however, necessary in every case that the tenant's name should appear in the rate-book as the person charged or assessed (*Rex* v. *Llangammarch*, 2 T. R. 628; *Reg.* v. *Hulme*, 4 Q. B. 538; 12 L. J. M. C. 100; 7 Jur. 464); it is sufficient that there should be an intention on the part of the parish officers to charge the tenant with the payment of the rate (*Reg.* v. *St. Anne, Westminster*, 2 E. & E. 485; 29 L. J. M. C. 78; 6 Jur. (N. S.) 249; 8 W. R. 180).

A pauper occupied premises at a yearly rent under an agreement by which the landlord was to pay all rates, and the rent was highe on that account than it would otherwise have been. The pauper was assessed to the poor rate as occupier, but the landlord always paid the rate. *Held* that the pauper did not gain a settlement by being charged with, or assessed to, and paying the poor rate, either under 3 Wm. & M. c. 11, s. 6, or 4 & 5 Will. 4, c. 76, s. 66 (*Reg.* v. *South Kilvington*, 5 Q. B. 216; 13 L. J. M. C. 3; 7 Jur. 1108).

A local Act rendered the incoming and outgoing tenants of

* See also cases collected under 1 Will. 4, c. 18.

VII. And it is hereby further enacted that if any unmarried person not having child or children, shall be lawfully hired into any parish or town for one year, such service shall be adjudged and deemed a good settlement therein though no such notice in writing be delivered and published as is hereinbefore required.

Sect. 7.

In what case service for a year a settlement.

premises in the parish liable respectively to the payment of the rates of the parish, in proportion to the times of their occupation respectively. A. occupied a house for the latter part of a year, in respect of which the outgoing tenant was rated, and A. paid the portion of the rate in respect of the time during which he occupied, but was not entered on the rate-book as occupier for any part of the time. It was held that A. acquired a settlement (*Reg.* v. *Marylebone*, [1850] 15 Q. B. 399; 19 L. J. M. C. 201; 4 N. S. C. 199; 14 Jur. 833).

Sect. 6.

Note.

The requirements of 3 Wm. & M. c. 11, s. 6, are satisfied by assessment to and payment of any one distinct public tax or levy of the parish, although the person so assessed and paying does not pay the other taxes or rates levied in the parish. Thus, where an occupier paid a part only of the poor rate demanded of him, but paid the whole of a watch rate levied in the township, it was held that he did not gain a settlement by payment of the poor rate, inasmuch as he had not paid the whole of the amount of it with which he was charged, but that he did nevertheless gain a settlement by the payment of the watch rate (*Everton* v. *South Stoneham*, 2 E. & E. 771; 29 L. J. M. C. 165; 6 Jur. (N. S.) 606; 8 W. R. 523).

What are parochial rates or taxes.

Besides the poor rate the following taxes and rates have been held to be "parochial rates" within 6 Geo. 4, c. 57, and "public taxes or levies of a town or parish" within 3 Wm. & M. c. 11, s. 6: the land tax (*Rex* v. *East Teignmouth*, 1 B. & Ad. 244); property tax, payable under 5 & 6 Vict. c. 35, s. 60, Sched. A., though deducted from the next rent payable to the landlord (*St. George, Hanover Square*, v. *Cambridge Union*, L. R. 3 Q. B. 1; 8 B. & S. 764; 37 L. J. M. C. 17; 17 L. T. (N. S.) 142; 16 W. R. 77); borough watch rate (*Everton* v. *South Stoneham, supra*); rates made and levied under a local Act for paving and lighting, and providing watchmen and water-pipes for a city (*Reg.* v. *St. Thomas*, L. R. 5 Q. B. 371; 39 L. J. M. C. 83; 34 J. P. 711; S. C. *Exeter Union* v. *St. Thomas Union*, 22 L. T. (N. S.) 379).

Proof of rating and payment.

A settlement by being rated and paying rates cannot be proved by evidence of paying only without the production of the rate or accounting reasonably for the non-production of it (*Rex* v. *Coppull*, 2 East, 25). And where, upon appeal against an order of removal, a settlement by payment of rates in a third parish was set up, and the overseers of such parish had been subpœnaed to produce the rate-books, but refused to produce them, it was held that such refusal did not entitle the appellant to give secondary evidence of the rating (*Rex* v. *Llanfaethly*, 2 E. & B. 940; 17 Jur. 1123).

An entry of the receipt of rates by a clerk of a collector who was duly appointed is sufficient evidence of payment (*Reg.* v. *St. Mary, Warwick*, 1 E. & B. 816; 22 L. J. M. C. 109; 17 Jur. 551).

Sect. 7.

Note

Settlement by hiring and service was abolished by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 66, and this section is repealed by the S. L. R. Act, 1867).

Sect. 8.

Apprenticeship a settlement.

VIII. And . . . if any person shall be bound an apprentice by indenture and inhabit in any town or parish such binding and inhabitation shall be adjudged a good settlement though no such notice in writing be delivered and published as aforesaid.

Sect. 8.

Note.

By the Turnpike Roads Acts, 1822 (3 Geo. 4, c. 126), s. 51, no apprentice of any collector or person renting turnpike tolls, or residing in a turnpike toll-house, thereby gains a settlement.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 67, after the passing of that Act no settlement shall be acquired by being apprenticed in the sea service, or to a householder exercising the trade of the seas as a fisherman.

SETTLEMENT BY APPRENTICESHIP.—THE INDENTURE.

Instrument in writing.

Under this section it was necessary that the binding should be by deed of indenture; but by the Apprentices (Settlement) Act, 1757 (31 Geo. 2, c. 11), s. 1, "no person who shall hereafter be bound as an apprentice by any deed, writing, or contract not indented, being first legally stamped, shall be liable to be removed." It was at first held that the latter statute did not dispense with the necessity of a deed, although the deed need not be indented (*Rex* v. *Ditchingham*, 4 T. R. 769; *Rex* v. *All Saints, Hereford*, Burr. S. C. 656; *Rex* v. *Margram*, 5 T. R. 153); but in 1892 it was decided that the binding may be by writing properly stamped, and not necessarily by deed (*Woodstock Union* v. *Shipston-on-Stour Union*, 62 L. J. M. C. 43; 68 L. T. 449; 57 J. P. 167). A settlement cannot be obtained by inhabitation under a parol binding (*Rex* v. *Kingsweare*, Burr. S. C. 839; *Rex* v. *Stratton*, *ib.*, 272).

Void indenture.

No settlement is obtained by service under an instrument of apprenticeship which is absolutely void (*Rex* v. *Stoke Damerel*, 1 M. & R. 458; 7 B. & C. 563; *Rex* v. *Hipswell*, 2 M. & R. 474; 8 B. & C. 466; *Rex* v. *Gravesend*, 3 B. & Ad. 240); but inhabitation for the requisite period in service under an instrument which is not void but merely voidable, is sufficient to confer a settlement (*Rex* v. *St. Gregory*, 2 A. & E. 99).

An indenture of apprenticeship in contravention of an Act of Parliament, or by any contrivance in fraud of, or for the purposes of avoiding the express conditions of an Act, is void altogether, and not merely voidable, and no settlement can be gained thereunder (*Rex* v. *Hipswell*, 8 B. & C. 466; *Rex* v. *Gravesend*, 3 B. & Ad. 240; *Rex* v. *Barmston*, 7 A. & E. 858; *St. Nicholas, Rochester* v. *St. Botolph Without*, 12 C. B. (N. S.) 645; 31 L. J. M. C. 258; 6 L. T. (N. S.) 495; 9 Jur. (N. S.) 101).

Indentures made in a colony will be presumed to be made in conformity with the law of the colony (*Rex* v. *Closworth*, 6 A. & E. 286).

Parties to indenture.

Any person capable of executing a deed or written contract may bind himself an apprentice; although he be under age at the time, he is bound by the indentures to serve his master during the time therein specified (*Rex* v. *Saltern*, 2 Bott. 551, 6th ed.; *Rex* v. *Arundel*,

SETTLEMENT BY APPRENTICESHIP. THE INDENTURE—*continued.*

Sect. 8.

Note.

5 M. & S. 257), at least unless he become of age before the expiration of it, at which time it appears that he may avoid the contract, if he will (*Ex parte Davis*, 5 T. R. 715; see *Ex parte Gill*, 7 East, 376; *Coghlan* v. *Callaghan*, 7 Ir. C. L. R. 291). And an articled clerk gains a settlement by service and inhabitation under his articles, in the same manner as other apprentices (*St. Pancras* v. *Clapham*, 2 E. & E. 742; 29 L. J. M. C. 146).

So, any person, capable of executing a deed or written contract, may take an apprentice; even a person under age may do so (*Rex* v. *St. Petrox in Dartmouth*, 4 T. R. 196). It is not necessary, however, to the validity of an indenture of apprenticeship, that the master should exercise any trade, art, or mystery. Where a girl was bound apprentice to a common day-labourer, to learn "the art and mystery of a house-wife," the court held that the indenture was not invalid on that ground (*Rex* v. *St. Margaret's, Lincoln*, Burr. S. C. 728).

The instrument must be executed by the apprentice, although he be an infant; no execution by his father or other person, who covenants for his faithfully serving, even although the apprentice assent, will be deemed equivalent to his own execution (*Rex* v. *Cromford*, 5 East, 25; *Rex* v. *Ripon*, 9 East, 295; *Rex* v. *Arnsby*, 3 B. & Ald. 584).

An indenture, by which an apprentice was bound for seven years, to serve one person for the first four years, and his own father for the last three, to learn two different trades, has been holden valid (*Rex* v. *Louth*, 8 B. & C. 247).

Where money was given by will to trustees, for the purpose of putting out poor boys apprentices; and the trustees having put a boy out, and given a premium of 20*l.* with him, the indenture stated them as well as the boy and master to be parties, but it was in fact executed by the boy and master only, and not by the trustees: the court held the indenture to be valid notwithstanding (*Rex* v. *Quainton*, 2 M. & S. 338).

If the indenture be signed by the apprentice, a settlement may be gained although the master do not sign it or the counterpart (*Rex* v. *St. Peter's-on-the-Hill*, 2 Bott. 394, 6th ed.; *Rex* v. *Fleet*, Cald. 31).

A settlement may be gained, although there be a mistake in the name of the apprentice in the indenture (*Rex* v. *Wooldale*, 6 Q. B. 549; 14 L. J. M. C. 13).

Stamp.

A settlement is not gained by serving under an agreement of apprenticeship not stamped (*Rex* v. *Ditchingham*, 4 T. R. 769). But by the Stamp Acts, 1869 and 1891 (33 & 34 Vict. c. 97; 54 & 55 Vict. c. 39), there are exempted from duty instruments relating to any poor child apprenticed by or at the sole charge of any parish or township, or by or at the sole charge of any public charity, or pursuant to any Act for the regulation of parish apprentices.

As to exemptions from stamp duty, it has been holden that money subscribed by the inhabitants of a parish, for the purpose of apprenticing the children brought up in the charity school of that parish, is a public charity within the meaning of the statute.

SETTLEMENT BY APPRENTICESHIP.—THE INDENTURE—*continued.*

Sect. 8.

Note.

and that the indenture in such a case did not require a stamp (*Rex* v. *St. Matthew, Bethnal Green*, Burr. S. C. 574). And the same, where a lady left a sum of money by her will for the purpose of putting out the poor children of a particular parish apprentices (*Rex* v. *Clifton-upon-Dunsmore*, Burr. S. C. 697). Also, where an assignment of a parish apprentice stated that 3*l.* was paid by the first master to the second, and the assignment was not stamped, it was holden that parol evidence was admissible to prove that this money was in fact paid by the overseers out of the parish money (*Rex* v. *Llangunnor*, 2 B. & Ad. 616). But where the sum of 6*l.* was really paid by the first master to the second, and there was no assignment in writing, the court held it to be a nullity, and that the apprentice gained no settlement by service with the second master, even though the indenture itself was a parish indenture, as the assignment should have been in writing and stamped (*Rex* v. *Fakenham*, 2 A. & E. 528).

Where a boy was bound by one indenture to serve two masters consecutively, in distinct trades, it was holden that one stamp was sufficient (*Rex* v. *Louth*, 8 B. & C. 247).

Statement of premium or consideration.

Before the Stamp Act, 1891, an instrument of apprenticeship was void if it did not set out the true premium or consideration, but there is no such provision in the Act of 1891, inasmuch as the stamp duty under that Act does not vary with the amount of premium. The statement of the true consideration was enjoined by 8 Anne, c. 9, and such injunction was continued in the Stamp Act, 1869. The following cases were decided under the statutes before 1891:—

Where the father of the apprentice agreed to give a premium of 25*l.*, and he procured 10*l.* of it to be paid out of the funds of a public charity, which 10*l.*, however, was alone mentioned as the premium in the indenture, and the trustees of the charity were not aware that the father was to pay the additional 15*l.*; the court held the indenture to be void in not setting out the full and true consideration (*Rex* v. *Amersham*, 6 N. & M. 12; *Rex* v. *Baildon*, 3 B. & Ad. 427).

Before the binding, the intended master required a premium of 20*l.*, but the child's mother (who was then married, but not to the father of the child) was desired by her husband to give no more than 10*l.*; she, however, privately and without the privity or consent of her husband or child (although the master at the time was led to think otherwise), agreed to give the master something more than the 10*l.*; accordingly, upon the execution of the indenture, the husband paid the 10*l.*, which alone was mentioned in the indenture as the premium, and the wife some time after paid the master the additional sum of two guineas and a half. The court held that as the contract of the wife for the additional sum was invalid, it did not affect the validity of the indenture (*Rex* v. *Bourton-upon-Dunsmore*, 9 B. & C. 872).

A covenant by the apprentice to pay the master 2*s.* a week, the master at the same time paying him wages, is not a premium within the meaning of the Acts (*Rex* v. *Bradford*, 1 M. & S. 151).

If a greater sum be inserted in the indenture than is actually paid the indenture will be valid notwithstanding, for the intention of the statute was to prevent frauds upon the revenue, and no fraud,

SETTLEMENT BY APPRENTICESHIP—THE INDENTURE—*con.*

Sect. 8.

Note.

of course, can arise from a larger sum being inserted (*Rex* v. *Keynsham*, 5 East, 309).

A premium of 20*l.* was agreed upon, but in order to avoid the payment of the duty on 20*l.*, and to pay a less duty, the sum was afterwards reduced to 19*l.* 19*s.* 6*d.* It was held that this did not affect the validity of the indenture (*Shepherd* v. *Hall*, 3 Camp. 180).

Pauper apprentices.

The indenture binding pauper apprentices must now conform to the directions of the Gen. Cons. Ord., July 24th, 1847, arts. 52—73. But it has been held that many of the directions in these articles are directory only, and non-compliance with them do not make the indenture void (*Reg.* v. *St. Mary Magdalen, Bermondsey*, 2 E. & B. 809; 23 L. J. M. C. 1; 22 L. T. 96; 17 Jur. 1075; 18 J. P. 21).

INHABITATION.

Inhabitation in any place within the meaning of the statute for the purpose of gaining a settlement means sleeping in that place; and a settlement is gained by an apprentice in the parish or place where he sleeps, not where he serves (*St. John the Baptist* v. *St. James*, 1 Str. 594; *Rex* v. *St. Olave's, Jewry*, 2 Bott., 6th ed., pl. 415).

There must be an inhabitation of forty days under the instrument of apprenticeship, in some parish or place maintaining its own poor, in order to acquire a settlement. And therefore, where a boy was apprenticed, and served and resided in an extra-parochial place, it was holden that he gained no settlement by it (*Clerkenwell* v. *Bridewell*, 1 Ld. Raym. 549).

It is immaterial whether the apprentice reside the whole forty days consecutively or at different times (*Rex* v. *Gainsborough*, Burr. S. C. 586; *Rex* v. *Cirencester*, 1 Str. 579; *Rex* v. *Aldstone*, 2 B. & Ad. 207).

It is not necessary that the inhabitancy should be in the parish in which the apprentice was bound, or in which the master's permanent residence is situate (*St. Bride's* v. *St. Saviour's*, 2 Salk. 533; *Stoke Fleming* v. *Berry Pomeroy*, 2 Bott., 6th ed., pl. 416; *Rex* v. *Chelmsford*, 3 B. & Ald. 411).

An apprentice served his master in St. John's, but always slept with his father in St. James's. The court held that he gained his settlement in the latter parish: an apprentice gains his settlement in the parish in which he sleeps, and not in that in which he merely serves, for serving in a parish without sleeping there is not an inhabiting within the meaning of the statute (*St. John the Baptist* v. *St. James*, 1 Str. 594; S. P. *Rex* v. *St. Olave's, Jewry*, 2 Bott., 6th ed., pl. 415; *St. Mary, Colechurch*, v. *Radcliffe*, 1 Str. 60; Fort. 306; *Rex* v. *Barton Bradstock*, Burr. S. C. 531; *Rex* v. *Bosworth*, 6 A. & E. 286; *Rex* v. *Castleton*, Burr. S. C. 569).

Where the apprentice inhabits in the same parish with his master it is immaterial whether he be employed in doing any service for his master or not, provided his inhabitancy have relation to the indenture. A boy was apprenticed by the trustees of a charity to his own stepfather, a bricklayer, for seven years, and lived with him all that time, but was never taught the trade, nor did he ever work at it, but he hired and worked with other persons in the same parish with his stepfather's consent. The court held,

SETTLEMENT BY APPRENTICESHIP—INHABITATION—*con.*

Sect. 8.

Note.

that as he resided with his master, he gained a settlement by his apprenticeship (*Rex* v. *Burslem*, 11 A. & E. 52; S. P. *Rex* v. *Charles*, Burr. S. C. 706).

Where the apprentice resides in a separate parish from his master he must at the same time be working for his master, or his residence there must have some reference to the contract of apprenticeship to render it an inhabitation within the meaning of the Act. The test is, is the service going on actually or constructively under the contract of apprenticeship during the separate residence of the apprentice? A boy was apprenticed to a shipowner, at annual wages, and when engaged with the ship he was to be provided for by his master, but whilst the ship was laid up for the winter he was allowed 6*s.* a week and was to provide for himself; the master resided at Whitby, but the boy, whilst the ship was laid up for the winter, resided with his friends at Brotton, not doing any work for his master, though liable to be called upon to do so; the last night of his apprenticeship he slept at Brotton, and more than thirty-nine nights at other times during it. The court held that he gained no settlement at Brotton, as his residence there was not connected with any service under his indenture (*Rex* v. *Brotton*, 4 B. & Ald. 84; S. P. *Rex* v. *Barmby in the Marsh*, 7 East, 381; *Rex* v. *Titchfield*, Burr. S. C. 511; *Rex* v. *St. Mary, Bredin*, 2 B. & Ald. 382; *Rex* v. *Ilkeston*, 4 B. & C. 64; *Rex* v. *Stratford-upon-Avon*, 11 East, 176; *Rex* v. *Foulness*, 6 M. & S. 351; *Rex* v. *Banbury*, 3 B. & Ad. 706; *Rex* v. *Somerby*, 9 A. & E. 310).

Where the apprentice inhabits forty days in each of two or more parishes during the apprenticeship, he gains his settlement in that parish in which he sleeps the last night of his apprenticeship in pursuance of the apprenticeship (*Rex* v. *Ilkeston*, 4 B. & C. 64; *Reg.* v. *Barton-upon-Irwell*, 32 L. J. M. C. 102; 9 Jur. (N. S.) 795; S. C. *Burton* v. *Hulme*, 3 B. & S. 662; 7 L. T. (N. S.) 853). An apprentice, bound for seven years, served and resided with his master at Alfriston six years and eight months, two months and a half at Brighton, where his master had a shop, then one month at Alfriston with his master, and the remaining fortnight at West Grinstead with his master's father. The court held that he gained his settlement at Alfriston; the place in which he resided last under the indenture, and in which he previously resided the residue of forty days, is the place of his settlement (*Rex* v. *Brighthelmstone*, 5 T. R. 188). An apprentice served and resided with his master at Iddesleigh until within three months of the expiration of his indenture; he then with his master's consent worked for one W. in Dowland for about two months; he then served a fortnight in the local militia; after which he returned to Dowland, and worked there for W. during the remainder of his apprenticeship, but slept during the time at his mother's at Iddesleigh. The court held that he gained his settlement at Iddesleigh, as he slept there the last night of his apprenticeship (*Rex* v. *Iddesleigh*, 4 D. & R. 332; S. P. *Rex* v. *Bramshaw*, Burr. S. C. 98; *Rex* v. *Smarden*, 13 East, 452; *Rex* v. *Ribchester*, 2 M. & S. 135; *Rex* v. *Elswick*, 30 L. J. M. C. 66; 3 L. T. (N. S.) 321; 7 Jur. (N. S.) 45; 24 J. P. 787).

Inhabitation while serving under an assignment.

If it be a valid assignment, a settlement is gained by an inhabitation under it, in precisely the same way as during a service with the original master. Even where an apprentice who had served part of his time when his master died was assigned by his master's

SETTLEMENT BY APPRENTICESHIP—INHABITATION—*con.*

Sect. 8.

Note.

widow, and she described herself as executrix in the assignment, but there was no evidence to prove that she was either executrix or administratrix: the court held that, as a long time had since elapsed, they would presume that she was executrix; but even if she were but executrix *de son tort*, a residence of forty days under her assignment would confer a settlement (*Rex* v. *Barnsley*, 1 M. & S. 377). And in ordinary cases, even if the assignment be defective and bad, it will be deemed a special consent of the master to the apprentice serving a particular person, and an inhabitation during such service will gain a settlement (*Rex* v. *Barleston*, 5 B. & Ald. 780). Where, however, there was a written assignment, but unstamped, in a case where the assignment required a stamp, the court held that it could not be given in evidence; and as there was no other proof of the master's assent to the particular service, such service could not be holden to confer a settlement (*Rex* v. *St. Paul, Bedford*, 6 T. R. 452).

Inhabitation while serving another with the master's consent.

In cases of ordinary apprenticeship the consent of the master that the apprentice shall serve a particular person, and his serving accordingly, will have the same effect precisely as if he had served the original master; and his inhabitancy in any parish during that service will confer a settlement. Whether or not the consent has been given, and whether the intention of the parties was to continue or to terminate the apprenticeship, is a matter of evidence in each case. A young man was bound apprentice to a farrier in St. Olave's for seven years, and served him there two; and the master then verbally agreed with a farrier in All Hallows that the apprentice should serve him the remaining five years, and the apprentice served and resided there accordingly. The court held that he gained his settlement in All Hallows, as it should be intended that he served the original master there (*St. Olave's* v. *All Hallows*, 1 Str. 554; 8 Mod. 169; S. P. *Rex* v. *Banbury*, 5 B. & Ad. 176; 2 N. & M. 205; *Rex* v. *Chipping Warden*, 8 T. R. 108; *Rex* v. *Holy Trinity, in the Minories*, 3 T. R. 605; *Rex* v. *St. Mary, Lambeth*, Cald. 533; *Holy Trinity* v. *Shoreditch*, 1 Str. 10).

If the assent of the first master is obtained to the apprentice serving another, it is immaterial that the second master is not aware that the person is an apprentice; and the apprentice may accordingly acquire a settlement by inhabitation while serving such second master (*Rex* v. *Sandhurst*, 6 A. & E. 130; but *contra*, *Rex* v. *Ashby-de-la-Zouche*, 1 B. & Ald. 116). Service with another, however, without the consent of the first master, even though it be with his knowledge, will not be deemed a service under the apprenticeship so as to confer a settlement (*Rex* v. *St. Martin's, Exeter*, 2 A. & E. 655). Where a master told his apprentice he might go where he pleased, and afterwards, upon the apprentice leaving him, he asked him where he was going and he answered to one Underhill, and the master replied, "he might go there or where he pleased" (*Rex* v. *Crediton*, 1 East, 59); where a master upon being informed that the apprentice had entered into the service of another, said, "I am glad of it; he was a bad lad, and I could make nothing of him" (*Rex* v. *St. Helen, Stonegate*, 1 East, 285); and where a master desired his apprentice to go about his business and work for himself, and he did so (*Rex* v. *St. Luke's, Middlesex*, 1 W. Bl. 553; Burr. S. C. 542; *Rex* v. *Inman*, 4 B. & Ald. 55): in all these cases it was held that there was no sufficient consent by the master that the apprentice

Settlement by Apprenticeship—Inhabitation—*con.*

Sect. 8.

Note.

should serve the particular person whom he did serve, and that the apprentice gained no settlement by inhabitation during such service.

The intention of the parties must not be to terminate the apprenticeship to the first master by the apprentice working for another master (*Rex* v. *Christowe*, 11 East, 95).

In cases where the consent of a master to his apprentice serving a particular person will be sufficient to constitute it a service under the indenture the consent of any person to whom the original master may have assigned the apprentice will have the same effect (*Rex* v. *East Bridgeford*, Burr. S. C. 138; *Rex* v. *Tavistock*, *ib.*, 578; *Rex* v. *Clapham*, *ib.*, 266).

Parish apprentices.

So, as to parish apprentices, up to October 1st, 1816, if they served any particular person with their master's assent, they gained a settlement by inhabitation during the service with the second master in the same manner as apprentices in ordinary cases (*Rex* v. *St. Margaret's, Lincoln*, Burr. S. C. 728; *Rex* v. *Shebbear*, 1 East, 73). It was, however, enacted by 56 Geo. 3, c. 139, s. 9, that it should not be lawful for any master or mistress to put away or transfer any parish apprentice to any other without such consent of justices as is directed by 32 Geo. 3, c. 57, s. 7, and that no settlement should be gained by any service of such apprentice after such putting away or transfer, unless such service should have been performed under the sanction of such consent as aforesaid. The necessity of the consent of justices was abolished by 7 & 8 Vict. c. 101, s. 12; and the consent of the guardians was substituted by the Gen. Cons. Ord., July 24th, 1847, art. 72.

Inhabitation whilst serving another, after the master's death or bankruptcy.

In cases of ordinary apprenticeship, on the death of the master the contract for service on the part of the apprentice ceases. But although this in strictness is the case, yet if the apprentice continues to serve the executor, or if the executor assign him to or consent to his serving another, and he serve accordingly, such service will be deemed to be a service under the indenture, and the apprentice will acquire a settlement by an inhabitation under it (*Rex* v. *Stockland*, Cald. 60; 1 Doug. 70; and see *Rex* v. *Chirk*, Burr. S. C. 782).

In the case of parish apprentices, with whom not more than 5*l.* has been given as premium, it is provided by 32 Geo. 2, c. 57, s. 2, that two justices may, at any time within three months after death of the master, upon application of his widow, son, or executor, &c., make an order that such apprentice shall serve such widow, son, or executor, &c., during the residue of the term. But it seems that the effect of 7 & 8 Vict. c. 101, s. 12, is to abolish this jurisdiction of the justices; and as no provision is made in the Gen. Cons. Ord., July 24th, 1847, with regard to the death of the master, it is presumed that the apprenticeship is thereby determined.

As to the bankruptcy of the master, it was formerly no dissolution of the contract of apprenticeship; and therefore where, upon the master becoming bankrupt, the apprentice hired himself to a person in another parish for a year without his master's assent, and served: the court held that he gained no settlement by it (*Rex* v. *Puckington*, 2 Ld. Raym. 1352; 1 Str. 582). But where the master, upon becoming bankrupt, specially consented to his apprentice serving a person in another parish, and the apprentice served and resided there accordingly, the court held that he gained a settlement in

Sect. 9.

Appeal to quarter sessions.

IX. Provided always . . . that if any person or persons shall find him, her, or themselves aggrieved by any determination which any justice or justices of the peace shall make in any of the cases abovesaid, the said person or persons shall have liberty to appeal to the next general quarter sessions of the peace to be held for the said county, riding, or division, city, or town corporate, who upon full hearing of the said appeal shall have full power finally to determine the same.

Order final.

Church-warden to receive a person removed by warrant of two justices of peace.

X. And if any person be removed by virtue of this Act from one county, riding, city, town corporate, or liberty to another, by warrant under the hands and seals of two justices of the peace, the churchwardens or overseers of the poor of the said parish or town to which the said person shall be so removed are hereby required to receive the said person, and if he or they shall refuse so to do he or they so refusing or neglecting (upon proof thereof by two credible witnesses upon oath before any justice of the peace of the county, riding, city, or town corporate to which the said person shall be [so*] removed) shall forfeit for each offence the sum of five pounds to the use of the poor of the parish or town from which the said person was removed [*to be levied by distress and sale of the offender's or offenders' goods by warrant under the hand and seal of*

Penalty 5*l.*

Distress.

* Interlined on the roll.

SETTLEMENT BY APPRENTICESHIP—INHABITATION—*con.*

Sect. 8.

Note.

such other parish by his inhabitation during such latter service (*Rex* v. *Langham*, Cald. 126). Now, however, by the Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 41, if the master become bankrupt, the adjudication against him, if the bankrupt or apprentice give notice in writing to the trustee to that effect, operates as a complete discharge of the indenture of apprenticeship; but the trustee may, if he deem it expedient, upon application by or on behalf of the apprentice, transfer the instrument of apprenticeship to some other person.

In the case of parish apprentices, by art. 73 of the Gen. Cons. Ord., July 24th, 1847, if the master take the benefit of any Act for the relief of insolvent debtors, or be discharged under any such Act, such indenture shall forthwith become of no further force or effect.

Sect. 9.

Note.

The general right of appeal against orders of removal is given by the Poor Relief Act, 1662 (13 & 14 Car. 2, c. 12), s. 2. (See notes to that section.)

Sect. 10.

Note.

By the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 7, the delivery of any pauper under any warrant of removal, directed to the overseers of any parish, at the workhouse of such parish or of any union to which such parish belongs, to any officer of such workhouse, shall be deemed the delivery of such pauper to the overseers of such parish. And by the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 13, the delivery of a written statement of the charges for the maintenance of any pauper delivered

Sect. 10.

any justice of the peace of the county, riding, city, or town corporate, to which such person was removed, to the constable of the parish or town where such offender or offenders dwell, which warrant the said justice is hereby empowered and required to make the overplus, if any be, to be returned to the owner or owners, and for want of such sufficient distress, then the said justice shall commit the said offender or offenders to the common gaol of the said county, riding, or town corporate or liberty, there to remain without bail or mainprise for the space of forty days]. Provided always that all such persons who think themselves aggrieved with any such judgment of the said two justices may appeal to the next general quarter sessions of the peace to be held for the county, riding, city, town corporate, or liberty from which the said person was so removed.

Want of distress.

Imprisonment

Appeal to quarter sessions.

[The words in italics are repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).]

XI. And whereas many inconveniences do daily arise in cities, towns corporate, and parishes where the inhabitants are very numerous, by reason of the unlimited power of the churchwardens and overseers of the poor, who do frequently, upon frivolous pretences (but chiefly for their own private ends), give relief to what persons and number they think fit, and such persons being entered into the collection bill do become after that a great charge to the parish, notwithstanding the occasion or pretence of their

---

Sect. 10. Note.

under any order or warrant of removal directed to the overseers of any parish, at the workhouse of such parish, or of any union to which such parish belongs, to any officer of such workhouse, at the time of the delivery of such pauper, shall be deemed a delivery of such statement to the overseers of such parish, and shall be deemed a sufficient demand thereof in any proceedings for the recovery of such charges.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 2, paupers removed under an order obtained by the guardians should now be delivered at the workhouse of the union or parish in which the settlement is, or to some officer of the guardians, such as the workhouse master or the relieving officer.

Poor-law officers refusing to receive paupers properly brought to them under an order of removal may be sued for the penalty under this statute, or may be indicted (*Rex* v. *Davis*, Say, 163); and as they may be indicted, the court will not grant a *mandamus* requiring them to receive a pauper in obedience to an order of removal (*Dowuton Overseers, Ex parte*, 8 E. & B. 856; 27 L. J. M. C. 281).

Sect. 11. Note.

The whole system of poor-law relief being transferred to the guardians of unions by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 52—55, this section was repealed by the S. L. R. Act, 1887. No appeal lay against an order of a justice for relief under this section (*Rex* v. *North Shields*, 1 Doug. 331; Cald. 68).

Sect. 11.

receiving collections oftentimes ceases, by which means the rates for the poor are daily increased, contrary to the true intent of a statute made in the forty-third year of the reign of Her Majesty Queen Elizabeth, intituled An Act for the Relief of the Poor. For remedying of which and preventing the like abuses for the future, be it therefore enacted, that from and after the first day of March there shall be provided and kept in every parish (at the charge of the same parish), a book or books wherein the names of all such persons who do or may receive collection shall be registered, with the day and year when they were first admitted to have relief and the occasion which [brought] them under that necessity. And that yearly in Easter week (or as often as it shall be thought convenient), the parishioners of every parish shall meet in their vestry or other usual place of meeting in the same parish, before whom the said book shall be produced, and all persons receiving collection to be called over and the reasons of their taking relief examined, and a new list made and entered of such persons as they shall think fit and allow to receive collection, and that no other person be allowed to have or receive collection at the charge of the said parish but by the authority under the hand of one justice of the peace residing within such parish, or (if none be there dwelling) in the parts near or next adjoining, or by order of the justices in their respective quarter sessions, except in cases of pestilential diseases, plague, or small-pox, for and in respect of such families only as are or shall be therewith infected.

43 Eliz. c. 2.

A register to be kept of the admittance of the poor.

Parishioners yearly in Easter week, &c., to make a list of their poor.

In what case other than those in the list to receive alms.

XII. "And whereas many churchwardens and overseers of the poor and other persons intrusted to receive collections for the poor and other public monies relating to churches and parishes whereunto they do belong, do often misspend the said monies and take the same to their own use, to the great prejudice of such parishes and the poor and other inhabitants thereof, and because that many times the judges, when actions are brought against such churchwardens and overseers to recover the monies so misspent, taken, or misapplied by the persons aforesaid, refuse to admit parishioners to be witnesses in such cases, who are the only persons who can make proof thereof." Wherefore, to prevent all such evil and deceitful practices of churchwardens and overseers and other persons, be it enacted and declared that in all actions to be brought in their Majesties' Courts of Record at Westminster, or at the assizes, for the recovery of any sum or sums of money misspent or taken by churchwardens or overseers of the poor, the evidence of the parishioners or any of them other than of such as receive alms or any pension or gift out of such collections or public monies of such parish or parishes respectively, whereof the defendant or defendants is or are inhabitant or inhabitants, shall be taken and admitted in all such cases in the courts aforesaid, any custom, rule, order, or usage to the contrary notwithstanding.

Parishioners, except almsmen, may be evidence against churchwardens, &c.

Sect. 12.

Repealed by the S. L. R. Act, 1867.

Note.

6 & 7 WILL. & MARY, CHAP. 4.*

An Act for exempting Apothecaries from serving the offices of Constable, Scavenger and other Parish and Ward Offices, and from serving upon Juries.†

Recital that apothecaries are compelled to serve on juries, &c., and of letters patent of Jac. 1.

WHEREAS the art of [the‡] apothecary is of great and general use and benefit by reason of their constant and necessary assistance to His Majesty's subjects, which should oblige them solely to attend the duty of their professions, yet by reason that they are compelled to serve several parish, ward and leet offices in the places where they live and are frequently summoned to serve on juries and inquests, which take up great part of their time, they cannot perform the trusts reposed in them as they ought, nor attend the sick with such diligence as is required. And whereas King James the First by his letters patent under the great seals of England, did incorporate the apothecaries exercising that art within London and seven miles' compass by the name of the master, wardens, and society of the art and mystery of apothecaries of the city of London. Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that all and every person and persons using and exercising, or that hereafter shall use and exercise, the art of an apothecary within the said city of London and seven miles thereof, being free of the said society, and who already have been or hereafter shall be duly examined of his skill in the said mystery, and shall be approved of for the same and every of them for so long as he or they shall use and exercise the said art, and no longer, shall and may, at all times hereafter, be freed and exempted from the several offices of constable, scavenger, overseer of the poor, and all other parish, ward and leet offices, and of and from the being put into or serving upon any juries or inquests, and if at any time hereafter any such person or persons using the said art and being qualified as aforesaid shall be chosen or elected into any of the said offices, or returned, required, or appointed to serve in any jury, leet, or inquest, or be disquieted or disturbed by reason thereof, that then such person or persons producing a testimonial under the common seal of the said corporation of such his examination, approbation, and freedom to the person or persons by whom he shall be so elected or appointed, or by or before whom he shall be [so] summoned, returned, or required to serve or hold any of the said offices or duties, shall

Apothecaries within London and seven miles of the city, that are free, exempt from offices.

Remedy for apothecaries who may be chosen.

* This Act has no short title.

† Repealed as to so much as relates to juries by the Juries Act, 1826 (6 Geo. 4, c. 50), s. 62.

‡ Interlined on the roll.

Sect. 1.

be absolutely discharged from the same, and such nomination, election, return, and appointment shall be utterly void and of none effect, any order, custom, law, or statute to the contrary in any wise notwithstanding.

Country apothecaries who have served seven years, exempted from offices.

5 Eliz. c. 4.

II. And . . . all persons using and exercising, or that hereafter shall use and exercise, the said art of an apothecary within any other parts of this kingdom, dominion of Wales, or town of Berwick-upon-Tweed, and who have been brought up and served, or hereafter shall be brought up and served in the said art as an apprentice by the space of seven years, according to the statute of the fifth of Queen Elizabeth, shall likewise from henceforth be freed and exempted from all and singular the offices and duties aforesaid, within the several counties, cities, and places where they live and inhabit, for so long as he or they shall [use and *] exercise the said art and no longer and if any person or persons so qualified shall be elected or chosen into any of the said offices, or returned to serve in any jury, leet, or inquest, such nomination, election, return, and appointment shall be void unless such person or persons shall voluntarily consent and agree to hold such office or serve upon such jury, leet, or inquest. . . .

[The proviso to this section was repealed by the S. L. R. Act, 1867.

The statute 5 Eliz. c. 4, as to apprentices, is repealed by 38 & 39 Vict. c. 86, s. 17.]

8 & 9 WILL. III., CHAP. 30.†

An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom.

FORASMUCH as many poor persons chargeable to the parish, township, or place where they live, merely for want of work, would, in any other place where sufficient employment is to be had, maintain themselves and families, without being burdensome to any parish, township, or place, but not being able to give such security as will or may be expected and required upon their coming to settle themselves in any other place, and the certificates that have been usually given in such cases having been oftentimes construed into a notice in handwriting, they are for the most part confined to live in their own parishes, townships, or places, and not permitted to inhabit elsewhere, though their labour is wanted in many other places, where the increase of manufactures would employ more hands: be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and the Commons, in this present Parliament assembled, that if any person or persons whatsoever, that,

* Interlined on the roll.

† This Act has no short title.

Sect. 1.

Poor persons residing in a strange parish under certificate, and becoming chargeable thereto, to be removed with their children to their own parish.

from and after the first day of May which shall be in the year of our Lord one thousand six hundred ninety-seven, shall come into any parish or other place, there to inhabit and reside, shall at the same time procure, bring, and deliver to the churchwardens or overseers of the poor of the parish or place where any such person shall come to inhabit, or to any or either of them, a certificate under the hands and seals of the churchwardens and overseers of the poor of any other parish, township, or place, or the major part of them, or under the hands and seals of the overseers of the poor of any other place where there are no churchwardens, to be attested respectively by two or more credible witnesses, thereby owning and acknowledging the person or persons mentioned in the said certificate to be an inhabitant or inhabitants legally settled in that parish, township, or place, every such certificate having been allowed of and subscribed by two or more of the justices of the peace of the county, city, liberty, borough, or town corporate wherein the parish or place from whence any such certificate shall come doth lie, shall oblige the said parish or place to receive and provide for the person mentioned in the said certificate, together with his or her family, as inhabitants of that parish, whenever he, she, or they shall happen to become chargeable to or be forced to ask relief of the parish, township, or place to which such certificate was given; and then, and not before, it shall and may be lawful for any such person, and his or her children, though born in that parish, not having otherwise acquired a legal settlement there, to be removed, conveyed, and settled in the parish or place from whence such certificate was brought.

[Repealed by the S. L. R. Act, 1867.]

Parish badges to be worn.

II. And to the end that the money raised only for the relief of such as are as well impotent as poor may not be misapplied and consumed by the idle, sturdy, and disorderly beggars, be it further enacted by the authority aforesaid, that every such person as, from and after the first day of September one thousand six hundred ninety-seven, shall be upon the collection and receive relief of any parish or place, and the wife and children of any such person cohabiting in the same house (such child only excepted as shall be by the churchwardens and overseers of the poor permitted to live at home, in order to have the care of and attend an impotent and helpless parent), shall, upon the shoulder of the right sleeve of the uppermost garment of every such person, in an open and visible manner, wear such badge or mark as is hereinafter mentioned and expressed, that is to say, a large Roman P., together with the first

---

Sect. 1.

Note.

This section was explained by 9 Will. 3, c. 15, s. 1 (now also repealed by the S. L. R. Act, 1867), that no person who should come into a parish under any such certificate should be adjudged by any act whatsoever to have procured a legal settlement in such parish unless he should really and *bonâ fide* take a lease of a tenement of the value of 10*l.*, or should execute some annual office in such parish.

Sect. 2.

letter of the name of the parish or place whereof such poor person is an inhabitant, cut either in red or blue cloth, as by the churchwardens and overseers of the poor it shall be directed and appointed; and if any poor person shall at any time neglect or refuse to wear such badge or mark as aforesaid, and in manner as aforesaid, it shall and may be lawful for any justice of the peace of the county, city, liberty, or town corporate where any such offence shall be committed, upon complaint to him for that purpose to be made, to punish every such offender for every such offence, either by ordering of his or her relief or usual allowance on the collection to be abridged, suspended, or withdrawn, or otherwise by committing of any such offender to the house of correction, there to be whipped and kept to hard labour, for any number of days not exceeding one-and-twenty, as to the said justice in his discretion it shall seem most meet; and if any such churchwarden or overseer of the poor from and after the said first day of September shall relieve any such poor person not having and wearing such badge or mark as aforesaid, being thereof convicted upon the oath of one or more credible witness or witnesses before any justice of the peace for the county, city, liberty, or town corporate where any such offence shall be committed, he shall forfeit for every such offence the sum of twenty shillings, to be levied by distress and sale of the goods of every such offender, by warrant under the hand and seal of any such justice, one moiety thereof to be to the use of the informer, and the other to the poor of the parish where the offence shall be committed.

[Repealed by 50 Geo. 3, c. 52, which is now repealed by the S. L. R. Act (No. 2), 1872.]

Justices in sessions, on appeal to them concerning the settlement of any poor person, to award costs.

III. And for the more effectual preventing of vexatious removals and frivolous appeals, the justices of the peace of any county or riding in their general or quarter sessions of the peace, upon any appeal before them there to be had for and concerning the settlement of any poor person, or upon any proof before them there to be made of notice of any such appeal to have been given by the proper officer to the churchwardens or overseers of the poor of any parish or place (though

Sect. 3.

Note.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 82, the parish [or union] losing an appeal against an order of removal is to pay such costs as the sessions may direct.

By the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 5, a party making frivolous or vexatious grounds of removal or appeal is made liable to pay the costs of disputing them.

By the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 5, a general power to award costs upon appeals is given to all courts of general or quarter sessions.

Where the appeal against a removal order is not entered the court merely makes an order for the costs, upon proof of the notice of appeal given. If the appeal be entered, then the judgment is that the appeal be dismissed and that the appellants pay

Sect. 3.

they did not afterwards prosecute such appeal), shall at the same quarter sessions award and order to the party for whom and in whose behalf such appeal shall be determined, or to whom such notice did appear to have been given as aforesaid, such costs and charges in the law as by the said justices in their discretion shall be thought most reasonable and just, to be paid by the churchwardens, overseers of the poor, or any other person against whom such appeal shall be determined, or by the person that did give such notice as aforesaid; and if the person ordered to pay such costs shall happen to live in any county, riding, city, or town corporate, or elsewhere out of the jurisdiction of the said court, it shall and may be lawful for any justice of the peace of the county, riding, city, liberty, or town corporate wherein such person shall inhabit, and every such justice is hereby required, upon request to him for that purpose to be made, and a true copy of the order for the payment of such costs produced and proved by some credible witness upon oath, by warrant under his hand and seal, to cause the money mentioned in that order to be levied by distress and sale of the goods of the person that is ordered and ought to pay the same; and if no such distress can or may be had, to commit such person to the common gaol of that county or liberty, there to remain by the space of twenty days.

Person ordered to pay costs living out of jurisdiction; justice of the county, &c., where such person inhabits may cause the money to be levied.

Settlement by hiring and service.

IV. And whereas some doubts have arisen touching the settlement of unmarried persons, not having child or children, lawfully hired into any parish or town for one year; be it therefore

---

Sect. 3.

Note.

the respondents their costs; but the sessions cannot confirm the order (*Reg.* v. *Over*, 14 Q. B. 425; 19 L. J. M. C. 57; 4 N. S. C. 77; 8 Jur. 197).

Notice of appeal against a removal order was given and was afterwards countermanded, but not in time, which by the practice of the sessions entitled the respondents to the costs incurred by them in attending the court to support their order; at the sessions, the appellants not having entered the appeal, the respondents entered it, and upon motion the sessions confirmed the order, and adjudged the appellants to pay the costs incurred by the respondents in attending the court to support their said order. On *certiorari*, the court quashed the order of sessions, holding that they had no jurisdiction to confirm the order under such circumstances, and the order for costs being ancillary to the order of confirmation was bad also (*Reg.* v. *Stoke Bliss*, 6 Q. B. 158; 13 L. J. M. C. 151). And in another case where the like proceeding was had, the court actually awarded a *mandamus*, commanding the justices at sessions to erase from their records the entry of the appeal and the order of their court confirming it (*Reg.* v. *Yorks. W. R. JJ.*, [1843] 5 Q. B. 1; 12 L. J. M. C. 148).

The sessions have power to award costs to the appellant, although the order be quashed for informality only and the merits are not gone into (*Rex* v. *Cottingham*, 2 A. & E. 250).

See further, as to costs on appeals, the cases collected under 11 & 12 Vict. c. 31, s. 5, and 12 & 13 Vict. c. 45, s. 5, *post*.

enacted and declared by the authority aforesaid, that no such person so hired as aforesaid shall be adjudged or deemed to have a good settlement in any such parish or township, unless such person shall continue and abide in the same service during the space of one whole year. Sect. 4.

Amendment of 43 Eliz. c. 2, as to binding poor children apprentices.

V. And whereas by an Act made in the three-and-fortieth year of the reign of Queen Elizabeth, intituled An Act for the Relief of the Poor, it is amongst other things enacted, that it shall be lawful for the churchwardens and overseers of the poor of any parish, or the greater part of them, by the assent of two justices of the peace, whereof one to be of the quorum, to bind poor children apprentices, where they shall see convenient; but there being doubts whether the persons to whom such children are to be bound are compellable to receive such children as apprentices, that law hath failed of its due execution; be it therefore enacted and declared by the authority aforesaid, that where any poor children shall be appointed to be bound apprentices pursuant to the said Act, the person or persons to whom they are so appointed to be bound shall receive and provide for them, according to the indenture signed and confirmed by the two justices of the peace, and also execute the other part of the said indentures; and if he or she shall refuse so to do, oath being thereof made by one of the churchwardens or overseers of the poor, before any two of the justices of the peace for that county, liberty, or riding, he or she shall for every such offence forfeit the sum of ten pounds, to be levied by distress and sale of the goods of any such offender, by warrant under the hands and seals of the said justices, the same to be applied to the use of the poor of that parish or place where such offence was committed; saving always to the person to whom any poor child shall be appointed to be bound an apprentice as aforesaid, if he or she shall think themselves aggrieved thereby, his or her appeal to the next general or quarter sessions of the peace for that county or riding, whose order therein shall be final and conclude all parties.

Appeal to the quarter sessions.

[Repealed by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 13.]

Appeals to be tried in the county, &c., from which the poor

VI. And from and after the first day of May, one thousand six hundred ninety-seven, the appeal against any order for the removal of any poor person from out of any parish, township, or place shall be had, prosecuted, and determined at the general

---

Sect. 4. Note.

Settlement by hiring and service for a year was established by the Poor Relief Act, 1691 (3 Wm. & M. c. 11), s, 6, which section as well as the present section is repealed by the S. L. R. Act, 1867, the mode of settlement itself being abolished by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 64.

Sect. 6. Note.

The right of appeal against orders of removal is given by the Poor Relief Act, 1662 (13 & 14 Car. 2, c. 12), s. 2; and by the Poor

Sect. 6.

person was removed.

or quarter sessions of the peace for the county, division, or riding wherein the parish, township, or place from whence such poor person shall be removed, doth lie, and not elsewhere; any former law or statute to the contrary thereof in anywise notwithstanding.

Sect. 6.

Note.

Relief Act, 1722 (9 Geo. 1, c. 7), s. 8, reasonable notice is to be given of such appeals.

Boroughs.

After the passing of this statute, in all cases where the respondent parish was situate in a borough, which was not a county of itself, the appeal must have been, not to the borough sessions, but to the sessions of the county or riding in which the borough, or rather the respondent parish, was situate. But since the 5 & 6 Will. 4, c. 76, came into force [and now by sect. 165 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50)], in all cases where the respondent parish is situate within a borough to which a separate court of quarter sessions has been granted, the appeal against an order of removal must be to the quarter sessions of the borough (*Reg.* v. *Shropshire JJ.*; *Reg.* v. *Lancashire JJ.*; *Reg.* v. *Suffolk JJ.*, 2 Q. B. 85; 10 L. J. M. C. 138; 1 G. & D. 146; 5 Jur. 1107; *Reg.* v. *Liverpool, Recorder*, 15 Q. B. 1070).

A poor-law union included a township situate in a county and a parish situate in a borough which had a recorder and separate quarter sessions. Two justices of the borough, by virtue of 30 & 31 Vict. c. 106, s. 27, made an order removing a pauper residing in the township to the place of his last settlement. It was held that the appeal against the order was governed by and dependent on the jurisdiction of the justices who made the order, and was, therefore, to the borough and not the county sessions (*Reg.* v. *Staffordshire JJ.*, L. R. 7 Q. B. 288; 41 L. J. M. C. 78; 25 L. T. (N. S.) 829; 20 W. R. 366).

General or quarter sessions.

It is to be observed that by 13 & 14 Car. 2, c. 12, s. 2, the appeal is given to the "next quarter sessions"; and by 3 Wm. & M. c. 11, s. 9, it is given to the "next general quarter sessions"; and by 8 & 9 Will. 3, c. 30, s. 6, it shall be prosecuted and determined at "the general or quarter sessions"; and by 9 Geo. 1, c. 7, s. 8, the justices "at the quarter sessions" shall judge of the reasonableness of the notice: yet where it appeared that in the borough of Caermarthen, which is a county of itself, there were no quarter sessions, but merely general sessions held twice a year, and the justices at these sessions refused to receive an appeal against an order of removal, conceiving that as there were no quarter sessions for the borough they had no authority to try it: the Court of King's Bench held, that in all cases, where there are no quarter sessions of the peace, the party aggrieved may appeal to the next sessions, and the sessions are bound to enter and try the appeal (*Rex* v. *Caermarthen JJ.*, 4 B. & Ald. 291). On the other hand, in counties or boroughs where there are general as well as quarter sessions, the appeal must be to the quarter sessions (*Reg.* v. *Middlesex JJ.*, 4 Q. B. 807; 12 L. J. M. C. 134).

Adjourned sessions.

Where quarter sessions are holden by adjournment in different parts of the county it is no objection that the party seeks to enter the appeal at an adjourned sessions, instead of the original sessions, if it be allowed by the practice of the sessions (*Rex* v. *Sussex JJ.*, [1797] 7 T. R. 107; *Reg.* v. *Sussex JJ.*, [1864] 4 B. & S. 966; 34 L. J. M. C. 69; 11 Jur. (N. S.) 300; 11 L. T. (N. S.) 40). But

VII. Provided always, that nothing in this Act contained shall extend or be construed to extend to make void any promise or engagement already made by the churchwardens or overseers of the poor of any parish, township, or place, to receive and take back any persons, in case they should become poor or want relief.

Sect. 7. Parish engagements to take back poor persons valid.

[Repealed by the S. L. R. Act, 1867.]

* VIII. Provided that this Act, nor any thing therein contained, shall be construed to hinder the justices of the peace within the liberty of St. Albans from hearing and determining any appeals for the settlement of the poor in their quarter sessions, as they might have done before the making of this Act; any thing therein contained to the contrary in anywise notwithstanding.

Appeals determinable in the quarter sessions of St. Albans as before.

* Annexed to the original Act in a separate schedule.

POOR RELIEF (DESERTED WIVES AND CHILDREN) ACT, 1718.

5 GEO. I., CHAP. 8.

An Act for the more effectual Relief of such Wives and Children as are left by their Husbands and Parents upon the Charge of the Parish.

WHEREAS divers persons run or go away from their places of abode into other counties or places, and sometimes out of the kingdom, some men leaving their wives, a child, or children, and some mothers run or go away, leaving a child or children upon the charge of the parish or place where such child or children was or were born, or last legally settled, although such persons have some estates, which should ease the parish of their charge, in whole or in part: May it please your Majesty therefore that it may be enacted; and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that it shall and may be lawful for the churchwardens or overseers of the poor of such parish or place where any such wife or child or children shall be so left, on

Churchwardens, &c., may by warrant from two justices, seize the goods, &c., of

---

although an appellant may thus enter his appeal at an adjourned sessions, he is not bound to do so (*Reg.* v. *Surrey JJ.*, [1813] 1 M. & S. 479).

Sect. 6. Note.

By the Poor Relief Act, 1722 (9 Geo. 1, c. 7), s. 7, there is a similar provision with regard to the justices of the borough of St. Peter and hundred of Nassaborough in Northamptonshire.

Sect. 8. Note.

Sect. 1. husbands and parents, who leave their wives and children upon the parish.

application to, and by warrant or order from any two justices of the peace, to take and seize so much of the goods and chattels, and receive so much of the annual rents and profits of the lands and tenements of such husband, father, or mother, as such two justices of the peace as aforesaid shall order or direct, for or towards the discharge of the parish or place where such wife, child, or children are left, for the bringing up and providing for such wife, child, or children, which warrant or order being confirmed at the next quarter sessions, it shall be lawful for the justices of such quarter sessions to make an order for the churchwardens or overseers for the poor of such parish or place to dispose of such goods or chattels by sale or otherwise, or so much of them for the purposes aforesaid as the court shall think fit, and to receive the rents and profits, or so much of them as shall be ordered by the sessions as aforesaid, of his or her lands and tenements, for the purposes aforesaid.

Such warrant to be confirmed at quarter sessions, who may make an order for sale, &c.

Churchwardens, &c., to be accountable to justices in sessions.

II. And . . . the churchwardens and overseers as aforesaid shall be accountable to the justices at the quarter sessions for all such money as they, or any of them, shall receive by virtue of this Act.

Sect. 1. Note.

By the Vagrancy Act, 1824 (5 Geo. 4, c. 83), s. 4, husbands or parents running away and deserting their families are to be deemed rogues and vagabonds, and are liable to three months' imprisonment.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 33, where a married woman requires relief without her husband, the justices may, upon application by a union or parish officer, make an order upon the husband to pay such sums as they deem proper towards her maintenance.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 19, proceedings may be taken against husbands or parents who run away and desert their families at any time within two years after the commission of the offence.

It would seem that the duties of the overseers and churchwardens under this Act were transferred to the guardians of unions by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 38, which enacts that the relief of the poor shall be administered by boards of guardians.

An order founded on this Act should state how much of the goods or rents of the fugitive should be seized by the parish officers; and the subsequent order of sessions shall specify the quantum of relief to be appropriated out of the goods and rents so seized, and limit a period for such appropriation (*Stable* v. *Dixon*, 6 East, 163).

Sect. 2. Note.

The provisions of this section appear to be in effect repealed by sect. 37 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), which enacted that the powers of justices to audit, allow and disallow accounts shall cease where there is a district auditor authorized to examine the same.

POOR RELIEF ACT, 1722.

9 GEO. I., CHAP. 7.

An Act for amending the Laws relating to the Settlement, Employment, and Relief of the Poor.

Preamble.

WHEREAS by an Act of Parliament made and passed in the third and fourth years of the reign of their late Majesties King William and Queen Mary, it was provided, that in every parish a book or books should be kept, wherein the names of all persons, who did or might receive collections, should be registered, with the time when they were first admitted to such relief, and the occasion which brought them under that necessity; and that no such person should be allowed to have or receive collection at the charge of the parish but by authority, or under the hand of one justice of peace residing in such parish, or if none there dwelling, in the parts near or next adjoining, or by order of the justices at their quarter sessions, except in case of pestilential diseases, plague, or small-pox. And whereas under colour of the proviso in the said Act, many persons have applied to some justice of peace, without the knowledge of any officers of the parish, and thereby, upon untrue suggestions, and sometimes upon false or frivolous pretences, have obtained relief, which hath greatly contributed to the increase of the parish rates; for remedy whereof, be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by authority of the same, that from and after the twenty-fifth day of March, which shall be in the year one thousand seven hundred and twenty-three, no justice of peace shall order relief to any poor person dwelling in any parish until oath be made before such justice of some matter, which he shall judge to be a reasonable cause or ground for having such relief; and that the same person had by himself, herself, or some other, applied for relief to the parishioners of the parish, at some vestry or other public meeting of the said parishioners, or to two of the overseers of the poor of such parish, and was by them refused to be relieved, and until such justice hath summoned two of the overseers of the poor to show cause why such relief should not be given, and the person so summoned hath been heard, or made default to appear before such justice; any thing in the said proviso, or any law to the contrary notwithstanding.

No poor person to be relieved without oath of reasonable cause for it, &c.

[Repealed by the S. L. R. Act, 1887.]

Sect. 1. Note.

The provisions of this and the following section were rendered superfluous by reason of the enactment in sect. 54 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), that save as in that section provided it should not be lawful for any justice of the peace to order relief to any person from the poor rates.

Sect. 2.

Persons ordered relief to be entered in a book, &c.

II. And the person whom any such justice of peace shall think fit to order to be relieved, shall be entered in such book or books so to be kept by the parish, as one of those who is to receive collection as long as the cause for such relief continues, and no longer; and that no officer of any parish shall (except upon sudden and emergent occasions) bring to the account of the parish any monies he shall give to any poor person of the same parish, who is not registered in such book or books to be kept by the said parish, as a person entitled to receive collection, on pain of forfeiting the sum of five pounds, to be levied by distress and sale, by warrant of any two or more justices of the peace of the same county, who shall have examined into and found him guilty of such offence; which said sum shall be applied to and for the use of the poor of the said parish, by direction of the said justice or justices of the peace.

[Repealed by the S. L. R. Act, 1887; see note to sect. 1.]

The power of justices of peace, &c.

III. And for the greater ease of justices of the peace, whom his Majesty, or his successors, hath or shall by commission authorize to act as a justice of peace for any county of this realm; be it enacted by the authority aforesaid, that if any such justice of peace shall happen to dwell in any city, or other precinct that is a county of itself, situate within the county at large, for which he shall be appointed justice of peace, although not within the same county, it shall and may be lawful for any such justice of peace to grant warrants, take examinations, and make orders for any matters which any one or more justice or justices of the peace may act in, at his own dwelling-house, although such dwelling-house be out of the county where he is authorized to act as a justice of peace, and in some city or other precinct adjoining that is a county of itself; and that all such warrants, orders, and other act or acts of any such justice of peace, and the act or acts of any constable, tythingman, headborough, overseer of the poor, surveyor of the highways, or other officer, in obedience to any such warrant or order, shall be as valid, good, and effectual in the law, although it happen to be out of the limits of the proper precinct or authority: provided always, that nothing in this Act contained shall extend to give power to the justices of peace for the counties at large, to hold their general quarter sessions of the peace in cities or towns which are counties of themselves, nor to empower justices of peace, sheriffs, bailiffs, constables, headboroughs, tythingmen, borsholders, or any other peace officers of the counties at large, to act or intermeddle in any matters or

Sect. 3.

Note.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 27, when a union extends into several distinct jurisdictions, every matter, act, charge or complaint by which the guardians thereof are affected, or in which they have any interest, shall for the purpose of jurisdiction be deemed to arise or exist equally throughout the union.

things arising within cities or towns which are counties of themselves, but that all such actings and doings shall be of the same force and effect in law, and none other, as if this Act had never been made. Sect. 3.

Workhouses may be provided for employing and maintaining the poor.

IV. And for the greater ease of parishes in the relief of the poor, be it further enacted by the authority aforesaid, that it shall and may be lawful for the churchwardens and overseers of the poor in any parish, town, township, or place, with the consent of the major part of the parishioners or inhabitants of the same parish, town, township, or place, in vestry, or other parish or public meeting for that purpose assembled, or of so many of them as shall be so assembled, upon usual notice thereof first given, to purchase or hire any house or houses in the same parish, township, or place, and to contract with any person or persons for the lodging, keeping, maintaining, and employing any or all such poor in their respective parishes, townships, or places, as shall desire to receive relief or collection from the same parish, and there to keep, maintain, and employ all such poor persons, and take the benefit of the work, labour, and service of any such poor person or persons, who shall be kept or maintained in any such house or houses, for the better maintenance and relief of such poor person or persons, who shall be there kept or maintained; and in case any poor person or persons of any parish, town, township, or place, where such house or houses shall be so purchased or hired, shall refuse to be lodged, kept, or maintained in such house or houses, such poor person or persons so refusing shall be put out of the book or books where the names of the persons who ought to receive collection in the said parish, town, township, or place, are to be registered, and shall not be entitled to ask or receive collection or relief from the churchwardens and overseers of the poor of the same parish, town, or township; and where any parish, town, or township shall be too small to purchase or hire such house or houses for the poor of their own parish only, it shall and may be lawful for two or more such parishes, towns, or townships, or places, with the consent of the major part of the parishioners or inhabitants of their respective parishes, towns, townships, or places, in vestry or other parish or public meeting for that purpose assembled, or of so many of them as shall be so assembled, upon usual notice thereof first given, and with the approbation of any justice of peace dwelling in or near any such parish, town, or place, signified under his hand and seal, to unite in purchasing, hiring, or taking such house, for the lodging, keeping, and maintaining of the poor of the several parishes, townships, or places so uniting, and there to keep, maintain, and employ the poor of the respective parishes so uniting, and to take and have the benefit of the work, labour, or service of any poor there kept and maintained, for the better maintenance and relief of the poor there kept, maintained, and employed; and that if any poor person or persons in the respective parishes, townships, or places so uniting, shall refuse to be lodged, kept, and

Sect. 4.

maintained in the house hired or taken for such uniting parishes, townships, or places, he, she, or they so refusing shall be put out of the collection book, where his, her, or their names were registered, and shall not be entitled to ask or demand relief or collection from the churchwardens and overseers of the poor in their respective parishes, townships, or places; and that it shall and may be lawful for the churchwardens and overseers of the poor of any parish, township, or place, with the consent of the major part of the parishioners or inhabitants of the said parish, township, or place, where such house or houses is, are, or shall be purchased or hired for the purposes aforesaid, in vestry, or other parish or public meeting for that purpose assembled, or of so many of them as shall be so assembled, upon usual notice thereof first given, to contract with the churchwardens and overseers of the poor of any other parish, township, or place, for the lodging, maintaining, or employing of any poor person or persons of such other parish, township, or place, as to them shall seem meet; and in case any poor person or persons of such other parish, township, or place shall refuse to be lodged, maintained, and employed in such house or houses, he, she, or they so refusing shall be put out of the collection book of such other parish, township, or place, where his, her, or their names were registered, and shall not be entitled to ask, demand, or receive any relief or collection from the churchwardens and overseers of the poor of his, her, or their respective parish, township, or place: provided always, that no poor person or persons, his, her, or their apprentice, child or children, shall acquire a settlement in the parish, town, or place, to which he, she, or they are removed by virtue of this Act, but that his, her, or their settlement shall be and remain in such parish, town, or place, as it was before such removal; any thing in this Act to the contrary notwithstanding.

[Repealed by S. L. R. Act, 1887, other provisions for the establishment of workhouses having been made by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 23—26, and amending Acts.]

Settlement, how to be required by purchase.

V. And from and after the twenty-fifth day of March, which shall be in the year of our Lord one thousand seven hundred and twenty-three, no person or persons shall be deemed, adjudged, or taken to acquire or gain any settlement in any parish or place, for or by virtue of any purchase of any estate or interest in such parish or place, whereof the consideration for such purchase doth not amount to the sum of thirty pounds *bonâ fide* paid, for any longer or further time than such person or persons shall inhabit in such estate; and shall then be liable to be removed to such parish or place where such person or persons were last legally settled, before the said purchase and inhabitancy therein.

Sect. 5.

Note.

Settlement by estate was a corollary from the Poor Relief Act, 1662 (13 & 14 Car. 2, c. 12), s. 1. However small the estate, residence for forty days in the parish in which such estate was conferred a

Sect. 5.

Note.

settlement in that parish. The present statute puts a limitation upon that right to a settlement in cases where the estate was acquired by purchase.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 68, no settlement by estate is retained longer than such time as the person shall inhabit within ten miles of the parish in which such estate is.

Devise.

A devise is not a "purchase" within the meaning of the Act (*Rex* v. *Wivelingham*, 2 Dougl. 767; Cald. 121).

Mortgage.

A conveyance on mortgage is a purchase within the meaning of the Act (*Rex* v. *Stockland*, 2 Str. 1162; Burr. S. C. 169).

WHERE CONSIDERATION NOT WHOLLY IN MONEY.

Natural love and affection.

As the Act especially requires that the consideration shall "amount to the sum of thirty pounds," it has been held that where the consideration does not consist wholly of money, the case is not within the Act.

The father of a pauper's wife, in consideration of natural love and affection, conveyed a customary cottage to her for life, remainder to her daughter and her heirs; it was admitted that this was not a case within the statute (*Rex* v. *Ingleton*, Burr. S. C. 560).

The father of a pauper in consideration of 10*l.*, and of natural love and affection, conveyed to him a cottage and premises in fee of more than the value of 10*l.*; the court held that it was not a case within the statute (*Rex* v. *Ufton*, 3 T. R. 251). After the marriage of a pauper, his father-in-law, in consideration of the marriage then lately had, and of natural love and affection for the pauper and his wife, and also in consideration of 10*s.*, conveyed to the pauper a piece of land: the court held it not to be a case within this statute (*Rex* v. *Charlton*, 2 Bott., 6th ed., pl. 625). A pauper's father, who was in possession of copyhold premises of inheritance in the parish of Takely, to which he had been admitted on the death of his father, verbally agreed to give them up to the pauper, if he would pay 15*l.*, which he (the pauper's father) had borrowed on them, and allow him and his wife to reside upon them rent free during their lives; the pauper accordingly paid 15*l.*, was admitted to the copyhold upon the surrender of the father (the admittance stating the verbal agreement), and the father and mother continued to reside on the premises, the father until his death, the mother until the time of the pauper's removal; the pauper also resided on the premises for eighteen years after the surrender, but was not residing there at the time of his removal: the court held that the pauper thereby gained a settlement (*Rex* v. *Hatfield Broadoak*, 3 B. & Ad. 566; see also *Rex* v. *Lydlinch*, 4 B. & Ad. 150; 1 N. & M. 33).

WHAT SUMS ARE INCLUDED IN THE CONSIDERATION MONEY.

What sums paid or to be paid by the vendee shall be deemed part of the consideration money has been made the subject of dispute in many cases.

Expenses of purchase.

A man purchased a copyhold tenement, and the purchase-money, fine and fees, altogether amounted to 30*l.* The court held this to

WHAT SUMS ARE INCLUDED IN THE CONSIDERATION MONEY —*continued.*

Sect. 5.

Note.

be sufficient within the meaning of the Act (*St. Paul's, Walden*, v. *Kempton*, Fol. 238). A man purchased a copyhold cottage for 22*l.*, and he was to pay all the expenses: he accordingly paid 3*l.* 10*s.* as a fine to the lord, 1*l.* 13*s.* to the steward for his admission copy, 1*l.* 1*s.* for a power of attorney to take his surrender, 3*l.* 6*s.* to his own attorney, and other fees, &c., amounting altogether to 33*l.* 15*s.* 6*d.* The court held that he gained no settlement; the fine to the lord might be deemed a part of the purchase-money, being paid to him for a certain interest he had in the land, but it was doubtful whether the sum paid to the steward could be deemed part; at all events the sum paid to his attorney and the other fees could not; and what he paid to the vendor, lord and steward, did not together amount to 30*l.* (*Rex* v. *Cottingham*, 7 B. & C. 603;

Repairs.

1 M. & R. 469). A man purchased a house, land and garden for 19*l.*, and laid out 15*l.* more in repairs and new buildings. The court held that he gained no settlement; the statute estimated the value of the estate by the sum actually paid for it, and not by what had been laid out on it afterwards (*Rex* v. *Dunchurch*, Burr. S. C. 553; 1 W. Bl. 596; and see *Wendron* v. *Stithians*, *infra*, p. 199).

Borrowed purchase-money.

A man purchased a house for 39*l.* and paid 9*l.* out of his own funds, and a friend of his, by his order, paid the remaining 30*l.*; in about a month he mortgaged it to his friend, to secure the 30*l.* The court held that he gained a settlement; the 39*l.* was actually paid to the vendor, and the sessions had no right to inquire whether the purchaser borrowed any part of it (*Rex* v. *Tedford*, 2 Str. 1014; Burr. S. C. 57; S. P. *Rex* v. *Acton Beauchamp*, Burr. S. C. 326). A copyhold messuage was mortgaged for 50*l.* and a man gave 10*l.* for the mortgagor's interest. In about three years and a half afterwards, he borrowed 50*l.* and paid off the mortgage, but immediately mortgaged it to the lender to secure the 50*l.* A few years after he sold the property for 80*l.* and paid off the mortgage; and from the time of the purchase to the re-sale he resided on the premises. The court held that he thereby gained a settlement (*Rex* v. *Chailey*, 6 T. R. 755).

Purchase of equity of redemption.

A man purchased a copyhold tenement for 39*l.* 17*s.* 6*d.*, including a mortgage upon it for 32*l.*, and upon paying the balance, 7*l.* 17*s.* 6*d.*, he was admitted to it subject to the mortgage; in about four years he gave up the tenement to the mortgagee, having paid only two years' interest and none of the principal. The court held that he gained no settlement; it was in substance a purchase of the mortgagor's interest only for 7*l.* 17*s.* 6*d.*, and came within the meaning of the statute (*Rex* v. *Mattingley*, 2 T. R. 12). A man agreed for the purchase of a house for 52*l.* if the vendor would allow 40*l.* of it to remain on mortgage. The conveyance stated the consideration to be 52*l.*, but only 12*l.* were actually paid, and the party then mortgaged the house to the vendor for 40*l.* The court held this to be a purchase for 12*l.* only, and within the statute (*Rex* v. *Olney*, 1 M. & S. 387).

Erecting buildings, &c.

A man rented a piece of land at a rent of 1*l.* 11*s.* 6*d.*, and built a house and other buildings upon it, but did not expend 30*l.* The landlord, in consideration of his having built the house and half a barn, to be for the joint benefit of himself and another tenant,

WHAT SUMS ARE INCLUDED IN THE CONSIDERATION MONEY —*continued.*

Sect. 5. Note.

granted him a lease of the premises for ninety-nine years, at the rent of 1*l.* 11*s.* 6*d.* This was held to be a purchase of the term within this statute, and being under 30*l.* the lessee gained no settlement by it (*Wendron* v. *Stithians*, 4 E. & B. 147; 24 L. J. M. C. 1; 1 Jur. (N. S.) 207).

A. agreed with B. to build a house, according to certain specifications, on land then belonging to B., in consideration of which undertaking, and of an annual rent-charge of 25*s.*, a lease of the land for three lives was to be granted. The house was built at a cost of 85*l.*, whereupon the lease was granted. *Held* that this was the purchase of an estate or interest for a consideration of more than 30*l.*, which conferred a settlement (*Reg.* v. *Bedford*, 3 B. & S. 662; 32 L. J. M. C. 156; 7 L. T. (N. S.) 785).

PAROL EVIDENCE TO SHOW CONSIDERATION.

The consideration stated in a conveyance was 28*l.* only, but it was proved by parol evidence that it was in fact 30*l.* The court held the parol evidence admissible, and that the party gained a settlement (*Rex* v. *Scammonden*, 3 T. R. 474). A conveyance of a piece of land was really made by a brother to the husband of his sister upon her marriage, but it expressed upon the face of it that it was made for a consideration of two guineas, which was about its value; it was argued that it was a purchase under 30*l.* within the statute, and that the parties were estopped by the deed from denying it: but the court held that although the parties might be estopped, yet the parish officers, who were no parties, were not estopped by the deed from showing the real consideration (*Rex* v. *Cheadle*, 3 B. & Ad. 833).

ESTATE PURCHASED MUST BE SUCH AS TO CONVEY SETTLEMENT BUT FOR THIS ACT.

No estate or interest is within the meaning of this statute, from which a settlement could not be derived if the Act had not been made. And, therefore, the purchase of a remainder, after an estate for life, was not within the Act and conferred no settlement (*Rex* v. *Eatington*, 4 T. R. 177). So, where a man purchased an estate for 310*l.* and paid 160*l.* of it, and was thereupon let into possession, but no conveyance was executed to him, and the contract was afterwards rescinded on default of payment of the second instalment of purchase-money: the court held that he gained no settlement; to gain a settlement by a purchase under this Act, the party must have, not merely an equitable right, as in this case, but an equitable estate; and here the estate was not the pauper's either at law or in equity, until he paid or tendered the residue of the purchase-money (*Rex* v. *Geddington*, 2 B. & C. 129). One Goodwyn applied for and obtained from the lord of a manor a licence in writing to build a cottage on the waste; he built the cottage accordingly, and in two years sold it to one Bailey, and Bailey sold it to the pauper for 30*l.*, but no conveyance was executed. The court held that the pauper gained no settlement by this purchase; the licence conferred no right or estate whatever; and as Goodwyn had no right or estate, he could give none to Bailey, nor Bailey to

Sect. 6.

Paying taxes to the scavenger gains no settlement.

VI. And no person or persons whatsoever, who, from and after the twenty-fifth day of March, in the year of our Lord one thousand seven hundred and twenty-three, shall be taxed, rated, or assessed to the scavenger or repairs of the highway, and shall duly pay the same, shall be deemed or taken to have any legal settlement in any city, parish, town, or hamlet, for or by reason of his, her, or their paying to such scavenger's rate or repairs of the highway, as aforesaid; any law to the contrary in any wise notwithstanding.

8 & 9 Will. 3, c. 30.

VII. And whereas there was a clause in the statute made in the eighth and ninth year of His late Majesty King William the Third, intituled, An Act for the supplying some Defects in the Law for the Relief of the Poor of this Kingdom, whereby it was enacted, that after the first day of May, one thousand six hundred and ninety-seven, all appeals against any order for the removing of any poor persons should be heard at the

---

ESTATE PURCHASED MUST BE SUCH AS TO CONVEY SETTLEMENT BUT FOR THIS ACT—*continued.*

Sect. 5.

Note.

the pauper (*Rex* v. *Hagworthingham*, 1 B. & C. 634; 3 D. & R. 16; and see similar cases, *Rex* v. *Long Bennington*, 6 M. & S. 403; *Rex* v. *Llantilio, Grosseney*, 5 B. & C. 461; *Rex* v. *Woolpit*, 4 D. & R. 456; *Rex* v. *Piddlehinton*, 3 B. & Ad. 460).

Building society.

A building club, consisting of fourteen members, in 1822 purchased land whereon to build fourteen houses and had it conveyed to a mortgagee, who advanced the money for the purchase (173*l.*) and other moneys to the amount in all of 500*l.*; this was to be repaid and the remaining expenses of the buildings defrayed, by monthly or yearly payments from the members, and by rents received for the houses after they were built, and when the whole should be paid each member was to have his house conveyed to him by the mortgagee. One Ellison, one of the members, was put in possession of one of the houses and paid rent for it to the club, and regularly paid his monthly and yearly contributions, when in 1839, having up to that time paid 81*l.*, the mortgagee conveyed to him his house in fee. It was contended that he gained no settlement by this, because the club by their purchase acquired an equitable estate in the land, and his share of the purchase-money being under 30*l.*, he could not add to it the sum expended in building the house upon it to bring it up to that amount; but the court held that he had no estate, legal or equitable, until the house was actually conveyed to him by the mortgagee, and at that time he had paid much more than 30*l.* for it, and he thereby gained a settlement (*Reg.* v. *Carlton*, 14 Q. B. 110; 19 L. J. M. C. 100; 14 Jur. 240).

Although a purchaser may be unable to gain a settlement by reason of this statute, yet if he transfer the estate to another for natural love and affection, the transferee can gain a settlement thereby (*Rex* v. *Marwood*, Burr. S. C. 386).

Sect. 6.

Note.

By 3 Wm. & M. c. 11, c. 6, a settlement was conferred by payment of parochial taxes.

Sect. 7.

quarter sessions of the county or division wherein the parish or place from whence such person should be removed, doth lie, and not elsewhere, except the liberty of Saint Albans; be it enacted by the authority aforesaid, that it shall and may be lawful for the justices of the peace within the liberty of the borough of Saint Peter and hundred of Nassaborough in the county of Northampton, to hear and determine all appeals to them made against any order made for removal of any poor person, in their quarter sessions, as they might have done before the making of the said last mentioned Act; any thing therein or in this present Act contained to the contrary thereof in any wise notwithstanding.

Justices of borough of Saint Peter, and hundred of Nassaborough in Northamptonshire may determine appeals.

VIII. And whereas several disputes and controversies have arisen and been concerning the time of notice to be given of appeals from orders of removals of poor persons, to prevent the same as much as may be for the future, be it enacted by the authority aforesaid, that from and after the said twenty-fifth day of March, one thousand seven hundred and twenty-three, no appeal or appeals from any order or orders of removal of any poor person or persons whatsoever from any parish or place to another, shall be proceeded upon in any court or quarter sessions, unless reasonable notice be given by the churchwardens or overseers of the poor of such parish or place, who shall make such appeal unto the churchwardens or overseers of the poor of such parish or place from which such poor persons or persons shall be removed; the reasonableness of which notice shall be determined by the justices of the peace at the quarter sessions to which the appeal is made; and if it shall appear to them that reasonable time of notice was not given, then they shall adjourn the said appeal to the next quarter sessions, and then and there finally hear and determine the same.

Reasonable notice is to be given of appeals.

Sect. 8.

Note.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 81, the grounds of appeal must be sent with the notice of appeal, or within fourteen days of the holding of the sessions; and by the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 9, the notice of appeal must be given within the time or times limited by that section.

By the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 2, nothing in that Act is to affect or alter the law as to notices of appeal against orders of removal; and the provisions as to notice of appeal in the Summary Jurisdiction Acts have no application to appeals against orders of removal (*Reg.* v. *Somersetshire JJ.*, 22 Q. B. D. 625; 58 L. J. M. C. 155; 60 L. T. 834; 37 W. R. 492; 53 J. P. 470).

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 4, notices of appeal against orders of removal obtained by guardians of a union are to be served on the clerk of the guardians.

Length of notice.

The length of the notice of appeal is determined by the practice of the sessions to which the appeal lies, and is stated to vary from

Sect. 8.

Notes.

six to twenty-eight days. It was formerly considered necessary, if the grounds of appeal formed part of the notice of appeal, that the notice of appeal should be delivered at least fourteen clear days before the first day of the sessions, but it has now been decided that this was not the proper construction to put upon 4 & 5 Will. 4, c. 76, s. 81, and that in such a case it is sufficient to deliver the notice of appeal in the usual time limited by the practice of the sessions (*Reg.* v. *Sussex JJ.*, [1863] 4 B. & S. 966; 34 L. J. M. C. 69; 11 Jur. (N. S.) 300; 11 L. T. (N. S.) 740; 13 W. R. 471).

Waiver.

A notice of appeal was given too late, but the respondents afterwards gave the appellants a notice to produce some document, and the sessions held this notice to be a waiver of the irregularity. The court held that it was a matter of practice, of which the sessions were competent to judge, and having done so, the court would not interfere (*Reg.* v. *Wickenby*, 16 J. P. 583).

Where appeal entered and respited.

A notice of appeal was duly given of an appeal respited from the preceding sessions, but a rule of the sessions required also that where an appeal was entered and respited notice thereof shall be given to the officers of the removing parish within one month after such entry and respite; and because such notice was not given, the sessions dismissed the appeal. Upon application for a *mandamus*, the court held that the justices had no authority to require this notice of the entry and respite; the statute required only a notice of appeal, and all the justices could do was to decide whether that notice was given in reasonable time (*Rex* v. *Norfolk JJ.*, [1834] 5 B. & Ad. 990).

An appeal was entered and respited, and a copy of the order of respite served on the officers of the removing parish, but no other actual notice of appeal was given. The Court of King's Bench held that this copy of the order of respite was sufficient notice of appeal; the respondents could not possibly understand it in any other light nor could the appellants have served it for any other purpose (*Rex* v. *Lambeth*, 3 D. & R. 340).

By the practice of the sessions at Preston, in Lincolnshire, ten days' notice of appeal was required, and the same as to respited appeals, unless there was some agreement between the parties to the contrary; the trial of an appeal having been put off on the application of the respondents, on account of the absence of a material witness, they objected at the next sessions to its being tried, because the appellants had not given the ten days' notice; but upon an application for a *mandamus*, the court held, that as the trial was put off until the next sessions at the request of the respondents, this was in effect an undertaking on their part to try at the next sessions without notice; and they accordingly granted the writ (*Rex* v. *Lindsey JJ.*, 6 M. & S. 379).

Insufficient notice.

If an appeal is entered, but no notice given, or if the sessions are of opinion that reasonable notice was not given, they cannot dismiss the appeal, but are bound to adjourn it to the next sessions (*Rex* v. *Buckinghamshire JJ.*, 3 East, 342; *Rex* v. *Staffordshire JJ.*, 7 East, 549); and if they dismiss it a *mandamus* will lie to the justices to enter continuances and hear it (*Rex* v. *Wiltshire JJ.*, 10 East, 404).

By whom notice to be given.

The notice of appeal to be effectual must be given by the parish or union officers, and not by individual ratepayers (*Reg.* v. *Stafford JJ.*, 10 A. & E. 417; 8 L. J. M. C. 62; 1 P. & D. 414).

Adjournment of hearing.

It is not compulsory on the sessions to hear and determine at the next quarter sessions an appeal which has been entered and

Sect. 8.

Note.

adjourned to such sessions; the appeal may be further adjourned, although no notice of appeal has been served prior to such sessions (*Reg.* v. *Lancashire JJ.*, 17 L. J. M. C. 45; 11 J. P. 820).

If a sufficient notice of appeal be served, but a defective statement of grounds of appeal, the sessions are not bound to adjourn the appeal, the compulsory clause in this section not extending to notice of grounds of appeal (*Rex* v. *Kimbolton*, 6 A. & E. 603).

VALIDITY OF NOTICE OF APPEAL.

Clerical error.

In the duplicate order of removal sent with the notice of chargeability, the name of one of the justices subscribed to it was illegible; the name in fact was "Josiah Wilson," but the appeal was entered as against an order of "John Walter," and the notice of appeal described it in the same way; but upon the hearing of the appeal, upon the original order being produced, the mistake was detected, and the sessions dismissed the appeal on the ground that there was no such order as was described in the entry. Upon application for a *mandamus*, Coleridge, J., held that if the sessions were of opinion that the appeal was meant to be entered against the real order, they would have jurisdiction to try it; and a *mandamus* was accordingly granted, requiring the justices to enter continuances and hear the appeal (*Reg.* v. *Middlesex JJ.*, 15 L. J. M. C. 100; 2 N. S. C. 341; 10 Jur. 494).

To wrong sessions.

A notice of appeal stated an intention to appeal to a borough sessions, and both parties attended accordingly, when the respondents objected that the appeal should have been to the county sessions, and the appeal was dismissed. The appellants then entered the appeal at the county sessions and had it respited, but at the next sessions the court refused to hear it, on the ground that no valid notice of appeal had been given. The court held that the sessions had decided rightly; as the appellants acted upon the notice as for the borough sessions, they could not afterwards treat it as a notice for the county sessions; if, indeed, they had not attended at the borough sessions, and no steps had been taken by either party upon it as a notice for those sessions, the words relating to the place might be rejected as surplusage, and the notice treated as for the county sessions (*Reg.* v. *Salop JJ.*, 4 E. & B. 257; 24 L. J. M. C. 14; 18 Jur. 1080; *Reg.* v. *Berwick*, 7 L. T. (N. S.) 670; 27 J. P. 87; *Reg.* v. *Buckingham JJ.*, 4 E. & B. 259 n.; 24 L. J. M. C. 15 n.; 18 Jur. 1079).

A notice of appeal to the quarter sessions for the county was given, but the appeal was entered for the sessions for the borough of Liverpool without any further notice of appeal, and dismissed for want of notice of appeal to the borough sessions. It was held that as there was no appeal to the county sessions, the notice was a sufficient notice; the erroneous statement that the appeal would be made to the county sessions being merely surplusage (*Reg.* v. *Liverpool, Recorder of*, 15 Q. B. 1070).

An order of removal from the parish of A. to the parish of B. was made and duly served with other documents on October 23rd, 1861. On November 6th the appellants applied to the respondent overseers for a copy of the depositions, "as (they stated) it is intended to appeal against such order of removal." The respondents took no notice whatever of this application, and on the expiration of twenty-one days they removed the paupers. On December 10th the appellants gave notice of appeal, and on the 20th they applied to the justices' clerk for copies of the depositions.

Sect. 9.

Justices, how to relieve the

IX. And for the preventing of vexatious removals, be it further enacted by the authority aforesaid, that from and after

Sect. 8.

Note.

VALIDITY OF NOTICE OF APPEAL—*continued.*

At the ensuing January sessions the appellants applied to enter and respite their appeal, which was entered and respited accordingly; but upon the order of sessions for such entry and respite being brought up to be quashed, it was held that the appellants had lost their right of appeal by not giving their notice in time; their application on November 6th for copies of the depositions being made to the wrong parties (*i.e.*, to the parish officers instead of to the clerk to the justices), and that such application was not of itself a notice of appeal (*Reg.* v. *St. Alkmund, Derby*, 3 B. & S. 347; 32 L. J. M. C. 99; 9 Jur. (N. S.) 744; 7 L. T. (N. S.) 622; 27 J. P. 54).

A notice of appeal, signed by parish officers, commencing, "We, the undersigned, being a majority of the churchwardens and overseers of the parish," &c., was presumed to have been signed, as it purported, by the majority of the parish officers on behalf of the whole number, and the onus of proving that it was not in fact so signed lay upon the respondents (*Reg.* v. *Yorks. W. R. JJ.*, [1845] 2 N. S. C. 1; 3 D. & L. 152; 14 L. J. M. C. 119; 9 Jur. 790; *Reg.* v. *Surrey JJ.*, [1846] 2 N. S. C. 245; 3 D. & L. 573; 15 L. J. M. C. 46; 10 Jur. 410).

A notice of appeal may be signed and given by an attorney on behalf of the parish officers of the appellant parish (*Reg.* v. *Middlesex JJ.*, [1851] 4 N. S. C. 302; 20 L. J. M. C. 42; *Rex* v. *Monmouth JJ.*, 7 L. J. M. C. 95).

SERVICE OF NOTICE OF APPEAL.

By the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 10, the notice may be sent "by post or otherwise, in like manner as a copy of an order of removal and statement of grounds of removal may now be sent by law." And when thus sent by post, the notice must be deemed to be given at the time when by the regular course of post it would reach the respondents. Where the last day of giving notice was September 19th, and the appellants posted it on the 17th, and according to the course of the post it ought to have reached the respondents on the 19th, but it was not in fact delivered to such notice until the 20th,—it was holden sufficient (*Reg.* v. *Slawstone*, 18 Q. B. 388; 21 L. J. M. C. 145; 16 Jur. 1066).

Admitting that the delivery of a notice of appeal in the ordinary manner would be service of an order or process within 29 Car. 2, c. 7, s. 6, the transmission of such notice by post, where, by the ordinary course of post, it reached on Sunday the hands of the overseers of the parish to whom the order was directed, was not void by 29 Car. 2, c. 7, s. 6 (*Reg.* v. *Leominster*, 2 B. & S. 391; 31 L. J. M. C. 95; 6 L. T. (N. S.) 216; 8 Jur. 793). But where a notice of appeal was delivered in the regular and ordinary course of post on a Sunday, and if it had not been delivered until the Monday it would have been too late, it was held to be void; and when delivery is made by post on Sunday it must be considered as made on the following Monday (*Asprell* v. *Lancashire JJ.*, 16 Jur. 1067; S. C. *Ashford, Ex p.*, 16 J. P. 759).

Sect. 9.

Note.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 79, no person may be removed until twenty-one days after

the twenty-fourth day of June, in the year of our Lord one thousand seven hundred and twenty-three, if the justices of the peace shall at their quarter sessions, upon an appeal before them there had concerning the settlement of any poor person, determine in favour of the appellant, that such poor person or persons was or were unduly removed, that then the said justices shall, at the same quarter sessions, order and award to such appellant so much money as shall appear to the said justices to have been reasonably paid by the parish or other place on whose behalf such appeal was made, for or towards the relief of such poor person or persons, between the time of such undue removal and the determination of such appeal; the said money so awarded to be recovered in the same manner as costs and charges upon an appeal are prescribed to be recovered by the said statute made in the ninth year of His late Majesty King William the Third, intituled, An Act for supplying some defects in the Laws for the Relief of the Poor of this Kingdom.

Sect. 9. — appellant on undue removals.

QUARTER SESSIONS APPEAL ACT, 1731.

5 GEO. II., CHAP. 19.

An Act to oblige the Justices of the Peace at their General or Quarter Sessions to determine Appeals made to them according to the Merits of the Case, notwithstanding Defects of Form in the original proceedings; and to oblige Persons suing forth Writs of *Certiorari* to remove Orders made on such Appeals into His Majesty's Court of King's Bench, to give Security to prosecute the same with Effect.

WHEREAS in many cases where His Majesty's justices of the peace by law are empowered to give or make judgments or — Preamble.

---

notice of his being chargeable, accompanied by a copy of the order of removal, shall have sent to the overseers or guardians of the parish or union of settlement; and, if an appeal is brought, not until the determination of the appeal.

Sect. 9. — Note.

Upon an application for a *mandamus*, requiring the justices at sessions to order the respondents to pay to the appellants the costs of maintenance of the pauper, the order of removal having been quashed upon appeal: the court held that the sessions were bound by this section to do so, and granted the writ (*St. Mary's, Nottingham* v. *Kirklington*, 2 Sess. Ca. 67; see *Rex* v. *Great Chart*, Burr. S. C. 194; *Rex* v. *Norfolk JJ.*, [1822] 5 B. & Ald. 484; *R.* v. *Monmouthshire JJ.*, 12 L. J. M. C. 126).

By the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 4, quarter sessions are empowered, upon hearing an appeal against an order of removal, to cause any statement of grounds of removal

Sect. 1. — Note.

Sect. 1.

orders, great expenses have been occasioned by reason that such judgments or orders have, on appeals to the justices of the peace at their respective general or quarter sessions, been quashed or set aside upon exceptions or objections to the form or forms of the proceedings, without hearing or examining the truth and merits of the matter in question between the parties concerned: Therefore, to prevent the same for the future, may it please your Most Excellent Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that after the twenty-fourth day of June, one thousand seven hundred and thirty-two, upon all appeals to be made to the justices of the peace to be made at their respective general or quarter sessions to be holden for any county, riding, city, liberty, or precinct, within that part of Great Britain called England, against judgments or orders given or made by any justices of the peace as aforesaid, such justices so assembled at any general or quarter sessions shall and they are hereby required from time to time within their respective jurisdictions, upon all and every such appeals so made to them, to cause any defect or defects of form that shall be found in any such original judgments or orders, to be rectified and amended without any cost or charge to the parties concerned, and after such amendments made shall proceed to hear, examine, and consider the truth and merits of all matters concerning such original judgments or orders, and likewise to examine all witnesses upon oath, and hear all other proofs relating thereto, and to make such determinations thereupon as by law they should or ought to have done, in case there had not been such defect or want of form in the original proceeding, any law, usage, or custom to the contrary notwithstanding.

After June 24th, 1732, justices may rectify defects of form on appeals,

and may proceed to determine them.

II. And whereas divers writs of *certiorari* have been procured to remove such judgments or orders into His Majesty's Court of King's Bench at Westminster, in hopes thereby to discourage and weary out the parties concerned in such judgments

---

Sect. 1. Note.

or appeal to be amended, so that no defect in form may prevent the appeal being heard on its merits; and by the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 3, a similar power of amendment is conferred upon quarter sessions in all appeals from justices.

By sect. 9 of 12 & 13 Vict. c. 45, the decision of the court of quarter sessions as to the sufficiency of the statement of any ground of appeal, and as to the amending or refusing to amend any order or judgment of a justice or justices appealed against shall be final.

The court of quarter sessions cannot under this statute amend the order appealed from in point of substance, but merely in matter of form (*Rex* v. *Great Bedwin*, Burr. S. C. 163).

Sect. 2.

No *certiorari* to be allowed to remove justices' orders, without a recognizance of 50*l.* to prosecute to effect.

or orders by great delays and expenses: Be it therefore enacted by the authority aforesaid, that no *certiorari* shall be allowed to remove any such judgment or order, unless the party or parties prosecuting such *certiorari*, before the allowance thereof, shall enter into a recognizance with sufficient sureties, before one or more justices of the peace of the county or place, or before the justices at their general quarter sessions or general sessions where such judgment or order shall have been given or made, or before any one of His Majesty's justices of the said Court of King's Bench, in the sum of fifty pounds, with condition to prosecute the same at his or their own costs and charges with effect without any wilful or affected delay, and to pay the party or parties in whose favour and for whose benefit such judgment or order was given or made, within one month after the said judgment or order shall be confirmed, their full costs and charges, to be taxed according to the course of the court where such judgments or orders shall be confirmed; and in case the party or parties prosecuting such *certiorari* shall not enter into such recognizance or shall not perform the conditions aforesaid, it shall and may be lawful for the said justices to proceed and make such further order or orders for the benefit of the party or parties for whom such judgment shall be given, in such manner as if no *certiorari* had been granted.

On refusal of recognizance justices to proceed.

Recognizances to be certified into the King's Bench.

III. And . . . the recognizance and recognizances to be taken as aforesaid, shall be certified into the Court of King's Bench at Westminster, and there filed with the *certiorari* and order or judgment removed thereby; and if the said order or judgment shall be confirmed by the said court, the persons entitled to such costs, for the recovery thereof, within ten days after demand made of the person or persons who ought to pay the said costs, upon oath made of the making such demand and refusal of payment thereof, shall have an attachment granted against him or them by the said court for such contempt, and the said recognizance so given upon the allowing of such *certiorari* shall not be discharged until the costs shall be paid and the order so confirmed shall be complied with and obeyed.

Attachment for contempt.

Sect. 2. Note.

The provisions of this section are applied by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 5, to writs of *certiorari* for removing allowances or disallowances or surcharges of district auditors.

By the Summary Jurisdiction Act, 1857 (20 & 21 Vict. c. 43), s. 10, no *certiorari* is necessary to remove an order of justices in relation to which a case is stated under that Act.

Sect. 3. Note.

An order removed by *certiorari* is confirmed by the mere discharge of the rule for quashing it (*Reg.* v. *Latchford*, 6 Q. B. 567; 14 L. J. M. C. 20; 9 J. P. 132).

JUSTICES JURISDICTION ACT, 1742.

16 GEO. II., CHAP. 18.

An Act to empower Justices of the Peace to act in certain Cases relating to Parishes and Places to the Rates and Taxes of which they are Rated or Chargeable.

Preamble.

WHEREAS doubts have arisen whether, according to the laws and statutes now in force, His Majesty's justices of the peace may lawfully act in any case relating to the parishes or places to the rates and taxes of which such justices respectively are rated or chargeable, may it please your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that it shall and may be lawful to and for all and every justice or justices of the peace, for any county, riding, city, liberty, franchise, borough, or town corporate within their respective jurisdictions to make, do, and execute all and every act or acts, matter or matters, thing or things appertaining to their office as justice or justices of the peace, so far as the same relates to the laws for the relief, maintenance, and settlement of poor persons, for passing and punishing vagrants, for repair of the highways, or to any other laws concerning parochial taxes, levies, or rates, notwithstanding any such justice or justices of the peace is or are rated to or chargeable with the taxes, levies, or rates within any such parish, township, or place affected by any such act or acts of such justice or justices as aforesaid.

Justices may enforce the laws relating to parish taxes, &c., though they are chargeable themselves.

[Sect. 2. *As to acts done before the passing of the Act.* Repealed by the S. L. R. Act, 1867.]

Proviso.

III. Provided always, . . . that this Act, or any thing therein contained, shall not authorize or empower any justice or justices of the peace for any county or riding at large to act in the determination of any appeal to the quarter sessions for any such county or riding, from any order, matter, or thing relating to any such parish, township, or place where such

---

Sect. 1.

Note.

Where one of the justices making a removal order was churchwarden of the removing parish, the court held the order to be bad; for the same party cannot be complainant and adjudicate upon the complaint (*Rex* v. *Great Yarmouth*, 6 B. & C. 646).

The disqualification of justices sitting at special sessions to hear appeals against poor rates is removed by this section (*Reg.* v. *Bolingbroke*, [1893] 2 Q. B. 347; 62 L. J. M. C. 180; 69 L. T. 717; 42 W. R. 128; 58 J. P. 118).

justice or justices of the peace is or are so charged, taxed, or chargeable as aforesaid, any thing herein contained to the contrary in any wise notwithstanding. Sect. 3.

POOR RATE ACT, 1743.

17 GEO. II., CHAP. 3.

An Act to oblige Overseers of the Poor to give public Notice of Rates made for the Relief of the Poor, and to produce the same.

WHEREAS great inconveniences do often arise in cities, towns corporate, parishes, townships, and places by reason of the unlimited power of the churchwardens and overseers of the poor, who frequently, on frivolous pretences and for private Preamble, reciting the Act 43 Eliz. c. 2.

Sect. 3. Note.

By the Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict. c. 39), s. 6, "no justice of the peace shall be disqualified for acting in the determination of any appeal against a poor rate at any quarter or special sessions by reason of such justice being rated, or being liable to be rated, in some other parish in the union than that for which the rate appealed against is made." This enactment has been held not to apply to the jurisdiction given by sect. 1 of this Act (16 Geo. 2, c. 18), but merely to mitigate the disqualification imposed by sect. 3 (*Reg.* v. *Bolingbroke*, [1893] 2 Q. B. 347; 62 L. J. M. C. 180; 69 L. T. 717; 42 W. R. 128; 58 J. P. 118; *Workington Overseers, Ex parte*, [1894] 1 Q. B. 416; 70 L. T. 143; 42 W. R. 177; 58 J. P. 381).

"Justices for cities, liberties, franchises, boroughs, or towns corporate," not being mentioned in this section (sect. 3), have the disqualification attaching to them as ratepayers removed by sect. 1 even when sitting at quarter sessions (*Rex* v. *Essex JJ.*, [1816] 5 M. & S. 513). It has been held, however, that a deputy recorder, being a ratepayer within another parish of the union from which an order of removal had been made, was not qualified to hear and determine an appeal from such order (*Reg.* v. *Cambridge*, 8 E. & B. 637; 27 L. J. M. C. 160; 4 Jur. (N. S.) 334).

The court will quash an order of sessions confirming an order of removal if justices who are ratepayers of an interested parish take part in hearing the appeal (*Reg.* v. *Cheltenham*, 1 Q. B. 467; 10 L. J. M. C. 90; *Reg.* v. *Rishton*, 1 Q. B. 479; 10 L. J. M. C. 103); or even sit on the bench during the appeal, though they do not vote upon the confirmation of the order (*Reg.* v. *Suffolk JJ.*, [1852] 18 Q. B. 416).

Sect. 1. Note.

By the Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45), s. 2, public notice of the rate is not to be given in church, but notice in writing thereof is to be affixed to the church door previously to divine service.

By the Poor Rate Assessment and Collection Act Amendment Act, 1882 (45 & 46 Vict. c. 20), s. 4, in a parish in which there is no church or chapel of the parish, a poor rate shall be deemed to

Sect. 1.

ends, make unjust and illegal rates in a secret and clandestine manner, contrary to the true intent and meaning of a statute made in the forty-and-third year of the reign of Queen Elizabeth, intituled "An Act for the Relief of the Poor:" For remedy whereof, and preventing the like abuses for the future, be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the first day of May, which shall be in the year of our Lord one thousand seven hundred and forty-four, the churchwardens and overseers, or other persons authorized to take care of the poor in every parish, township, or place, shall give or cause to be given public notice in the church of every rate for the relief of the poor, allowed by the justices of peace, the next Sunday after the same shall have been so allowed; and that no rate shall be esteemed or reputed valid and sufficient, so as to collect and raise the same, unless such notice shall have been given.

Poor's rates to be published in the church.

Sect. 1.

have been duly published if, within fourteen days after the making of the rate, notice thereof has been given by affixing such notice in some public and conspicuous place or situation in the parish.

Note.

By the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 18, the production of the book purporting to contain a poor rate, with the allowance of the rate by the justices, shall, if the rate is made in the form prescribed by law, be *primâ facie* evidence of the due making and publication of such rate.

A parish was divided into several townships, &c., each supporting its own poor, and a rate for one of the townships, in which the parish church was situate, being published in this church, was objected to because it had not been published in all the churches and chapels within the other townships, &c. *Held* that it was not necessary; all the statute required was that the rate should be published in all churches and chapels within that district for which it is made (*Reg.* v. *Worcestershire JJ.*, or *Marriott*, 12 A. & E. 779; 10 L. J. M. C. 12; 4 P. & D. 440).

Where a rule was obtained for a *mandamus* to compel justices of the peace to grant a warrant against a person who refused to pay a poor rate, it was shown for cause that the rate had not been published until the third Sunday after it was allowed. The court held that the rate was invalid on this ground, and therefore refused the *mandamus*. It appeared also that the rate had been appealed against and confirmed: but the court held that it made no difference; the rate was radically defective, and nothing could cure it (*Rex* v. *Newcomb*, 4 T. R. 368).

Again, re-allowance and re-publication will not cure an original defect in the rate (*Reg.* v. *Great Western Rail. Co.*, [1844] 1 N. S. C. 301). So, where there was one distress for several poor rates, and it appeared that some of them had not been published on the Sunday next after their allowance; the court held that the rates not published in proper time were altogether nullities, and that the party distrained upon was entitled to recover in replevin, although

Sect. 2.

The rates to be inspected by any inhabitant, and copies taken.

II. And . . . the churchwardens and overseers of the poor or other persons authorized as aforesaid, in every parish, township, or place, shall permit all and every the inhabitants of the said parish, township, or place to inspect every such rate at all seasonable times, paying one shilling for the same, and shall, upon demand, forthwith give copies of the same, or any part thereof, to any inhabitant of the said parish, township, or place, paying at the rate of sixpence for every twenty-four names.

Penalty on not permitting any inhabitant to inspect, &c.

III. And . . . if any churchwarden or overseer of the poor or other person authorized as aforesaid shall not admit any inhabitant or parishioner to inspect the said rates, or shall refuse or neglect to give copies thereof as aforesaid, such

---

Sect. 1.

Note.

he had not appealed against those rates (*Sibbald* v. *Roderick*, 11 A. & E. 38; 3 P. & D. 106).

Notice that a rate of so much in the pound would be collected forthwith was a good publication of the rate under this statute, although it was not stated that it had been allowed by the justices (*Bennett* v. *Edwards*, 7 B. & C. 586; affirmed, 6 Bing. 230). And, generally, notice of a publication of a rate need not state that the rate has been allowed (*Reg.* v. *Paynter*, 10 Q. B. 908; 16 L. J. M. C. 136; 11 Jur. 973).

Sect. 2.

Note.

By the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 5, every person rated may take copies of or extracts from the rate *gratis*; and any person refusing to permit a ratepayer to take such copies is liable to a penalty of 5*l*.

By the Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 16, registered electors and claimants may inspect the rate-books and make extracts therefrom *gratis*.

Sect. 3.

Note.

An overseer who refuses to give an inhabitant a copy of the poor rate is still liable to an action under this section for the penalty of 20*l*., notwithstanding 6 & 7 Will. 4, c. 96, s. 5, *supra* (*Tennant* v. *Creston*, 8 Q. B. 707; 15 L. J. M. C. 105; 2 N. S. C. 425; 10 Jur. 660).

An overseer is entitled to reasonable time after demand to make a copy of the rate demanded (*Spenceley* v. *Robinson*, 3 B. & C. 658); and whether an overseer has complied with a demand for a copy of a poor rate within a reasonable time is a question of fact for the jury (*Tennant* v. *Bell*, 16 L. J. M. C. 31).

In *Spenceley* v. *Robinson*, [1825] 3 B. & C. 658, the following points were decided on this statute: (1) In order to entitle a party to sue for the penalty he must show that he has sustained an injury by the refusal of the overseer; (2) The demand to inspect the rate must be made at a reasonable time and place, and *semble*, the house of the overseer is the place at which the demand ought to be made; (3) Although the statute says that copies shall upon demand be forthwith given, the overseer is entitled to a reasonable time for making them out.

In *Bennett* v. *Edwards*, [1827] 7 B. & C. 586, affirmed 6 Bing. 230, and in which a further decision was given, 8 B. & C. 702, it

churchwarden or overseer or other person authorized as aforesaid, for every such offence shall forfeit and pay to the party aggrieved, the sum of twenty pounds, to be sued for and recovered by action of debt, bill, plaint, or information, in any of His Majesty's Courts of Record, wherein no essoin, protection, or wager of law, or more than one imparlance shall be allowed.

Sect. 3.

Note.

was held (somewhat at variance with the decision in *Spenceley* v. *Robinson*, *supra*) that: (1) A demand to inspect a rate made on the overseer by a rated inhabitant in the presence of his attorney was a lawful demand; (2) A refusal to produce the rate upon a lawful demand makes the inhabitant a party grieved within the meaning of the statute; (3) A demand to see "the rate" was sufficiently specific, there being only one rate *in esse* at that time; (4) The overseer, by refusing to show the rate, and referring the party to the select vestry as a place where he would be allowed to inspect it, incurred the penalty imposed by this statute; (5) An assistant overseer appointed under 59 Geo. 3, c. 12, and having, by virtue of his office, the poor rate in his custody, is liable to the penalty under this statute for not producing it to an inhabitant when lawfully demanded.

A demand to inspect a rate was made upon an overseer on his own premises, not far from his house, and he refused to allow the inspection, but not on the ground that it was inconvenient to go to his house for that purpose. *Held* that this was a reasonable demand within the statute, and that the overseer was liable for the refusal (*Parker* v. *Edwards*, 7 B. & C. 594).

A clerk to the guardians under a local Act, who had the custody of the rate-books, was held not to be liable under this Act to a penalty for not allowing an inhabitant to inspect the rates (*Whitchurch* v. *Chapman*, 3 B. & Ad. 693; 1 L. J. M. C. 69).

A churchwarden or an overseer is not entitled under this statute to sue a co-churchwarden or overseer for penalties for refusing to allow him to inspect or to give him a copy of a rate (*Wethered* v. *Calcutt*, 5 Scott, (N. R.) 409; 4 M. & G. 566; 11 L. J. M. C. 123; 6 Jur. 487).

The right of an inhabitant to inspect a parish rate is a private right, and will not be enforced by *mandamus* unless grounds of a special and public nature are shown in support of the application (*Ex parte Briggs*, 1 E. & E. 881; 28 L. J. Q. B. 272; 7 W. R. 445).

LAND DRAINAGE (RATING) ACT, 1743.

17 GEO. II., CHAP. 37.

An Act to prevent Disputes touching the Parishes or Places where improved Wastes and drained and improved Marsh Lands shall be charged to Parochial Rates.

[By reason of the Extra-Parochial Places Act, 1857 (20 & 21 Vict. c. 19), enabling such places to be annexed to an adjoining parish, and of the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 27, whereby extra-parochial places having no overseers were annexed to the adjoining parish to which they had the largest common boundary, it is difficult, if not impossible, for a case now to arise which can require to be dealt with under this Act.]

WHEREAS in divers counties great quantities of waste and barren lands, and lands which were formerly fen or marsh ground, or covered with water, have been of late years improved or drained, and are now of very considerable annual value, and the inhabitants therein and occupiers thereof ought to bear and pay a proportionable part of the rates made for the relief of the poor, and to be subject to such charges, and in like manner as other inhabitants and occupiers of lands, houses, tithes impropriate, propriations of tithes, coal mines, and saleable underwoods are by an Act made in the forty-third year of the reign of Queen Elizabeth, intituled "An Act for the Relief of the Poor," and likewise to bear and pay a proportionable part of all other parochial rates; but great difficulties frequently arise in determining to what parish or place such lands belong or ought to be rated: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the twenty-fourth day of June one thousand seven hundred and forty-four, where there shall be any dispute or uncertainty in what parish or place such lands heretofore improved or drained, or hereafter to be improved or drained, lie and ought to be rated, all and every the occupier and occupiers of such lands, or houses built thereon, tenements, tithes arising therefrom, mines therein, and saleable underwoods therein growing or hereafter to grow, shall be rated and assessed to the relief of the poor, and to all other parochial rates within such parish and place which lies nearest to such lands, in like manner and form, and subject to the same directions and regulations, as all other lands within such parish and place are by law liable to be rated and assessed thereunto; and if on application to the officers of such parish or place to have such improved or drained lands rated and assessed as aforesaid, any dispute or difference shall arise touching what parish or place such lands ought to be rated and assessed in, it shall and may be lawful to and for the justices of the peace for the county, riding, liberty, or division where such lands lie, at their next general quarter sessions to be held for such county, riding, liberty, or division, after such application made as aforesaid, and after notice given to the officers of the several parishes and places abutting upon and adjoining to such lands, and to all other persons claiming

43 Eliz. c. 2.

Drained lands to pay parochial taxes.

Justices in general quarter sessions to hear and determine disputes.

Sect. 1.

and interested therein, to hear and determine the same on the appeal of any person interested, and at such sessions to cause such lands or hereditaments as aforesaid to be allotted to and fairly and equally assessed in such parish or place as they shall see just and meet; and such determination and allotment shall at all times thereafter be final and conclusive to and upon the said several parishes and places, and all other persons whatsoever, as to the parish or place in which such lands and hereditaments shall be rated and assessed to the poor and all other parochial rates as aforesaid; and the said lands and hereditaments shall at all times after such determination and allotment be rated and assessed to the relief of the poor, and to all other parochial rates, within such parish and parishes, place and places only to which they shall respectively have been so allotted as aforesaid, any law, custom, or usage to the contrary in anywise notwithstanding.

Nothing herein or hereby to affect the boundaries of any parish other than for the purpose of rating.

II. Provided always, . . . that nothing in this Act contained, nor any allotment to be made by the justices of the peace at their general quarter sessions in pursuance and by virtue thereof, shall extend to or be deemed or construed to extend to or in anywise affect or determine the boundaries of any parish or parishes, place or places, to any intent or purpose other than for the purpose of rating and assessing such lands, tenements, and hereditaments to the relief of the poor, and to all other parochial rates within such parish or place to which they shall be so allotted as aforesaid, any thing herein contained to the contrary thereof in anywise notwithstanding.

Recital of the Act 16 & 17 Car. 2, c. 11.

III. Provided always, . . . that nothing in this Act shall extend or be construed to extend to invalidate, make void, or in anywise alter a clause in an Act of Parliament made in the sixteenth and seventeenth year of the reign of King Charles the Second, intituled "An Act for draining of the "fen called Deeping Fen, and other fens therein mentioned," whereby it is enacted, that the trustees therein named, their heirs and assigns, or the survivor of them, their or any of their tenants, farmers, or ground-holders of any part of the third part of the said fen, or of the five thousand acres therein mentioned, should not at any time hereafter use or claim any common of pasture or other commonage of pasturing in any part of the remainder of the said fens nor any of them, nor in the north fen of Pinchbeck and Spalding, nor any part thereof, by virtue or pretence of his or their resiance there; but all and every the inhabitants that might thereafter be upon any part of the said third part, or upon any part of the said five thousand acres, and were not able to maintain themselves, should be maintained and kept by the said trustees, their heirs and assigns, and the survivor of them, and never become chargeable in any kind to all or any the respective parishes wherein such inhabitant or inhabitants reside or dwell, any statute or law to the contrary thereof in anywise notwithstanding.

The poor to be maintained by the trustees.

POOR RELIEF ACT, 1743.

17 GEO. II., CHAP. 38.

An Act for remedying some Defects in the Act made in the forty-third year of the reign of Queen Elizabeth, intituled "An Act for the Relief of the Poor."*

Preamble, reciting the Act 43 Eliz. c. 2.

WHEREAS by reason of some defects in an Act of Parliament made in the three-and-fortieth year of the reign of the late Queen Elizabeth, intituled "An Act for the Relief of the Poor," the money raised for that purpose is liable to be misapplied, and there is often great difficulty and delay in raising of the same. For remedy whereof, may it please your Most Excellent Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the twenty-fourth day of June, one thousand seven hundred and forty-four, the churchwardens and overseers of the poor shall yearly, and every year, within fourteen days after other overseers shall be nominated and appointed to succeed them, deliver in to such succeeding overseers a just, true, and perfect account in writing,

At what time parish officers shall make up their accounts.

* With regard to rural parishes the word "overseers" must now throughout this Act be substituted for "churchwardens and overseers" (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (2), (*b*)).

Sect. 1.

Note.

By the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 1, it is provided that the churchwardens and overseers shall within four days after the end of their year and after other overseers have been nominated, make and yield up to two justices of the peace a true and faithful account of all sums of money by them received, or rated and sessed and not received, and also of such stock as shall be in their hands, or in the hands of any of the poor to work, and of all other things concerning their office, and pay such sums of money as shall be in their hands to the new churchwardens and overseers.

Under that enactment the overseers' accounts were to be delivered to two justices, and not to the succeeding overseers (*Anon.*, 3 Salk. 525), and the authority of the justices could not be delegated (*Rex* v. *Turner*, Vin. Abr. 415); while a *mandamus* lay to compel overseers to deliver their public books and papers to their successors (*Rex* v. *Bletshow*, 1 Bott., 6th ed., pl. 315).

The present statute (17 Geo. 2, c. 38, s. 1) provides that churchwardens and overseers shall every year within fourteen days after other overseers have been appointed, deliver to such *succeeding overseers* a just account, signed by them, of all sums of money, &c., received and expended by them, and shall pay and deliver over to their successors all moneys and chattels in their hands, which account shall be verified by oath before a justice.

By the Poor Rate Act, 1810 (50 Geo. 3, c. 49), s. 1, it was provided that before the account mentioned in 17 Geo. 2, c. 38, should be signed and attested, it should be submitted to justices at a

Sect. 1.

fairly entered in a book or books to be kept for that purpose, and signed by the said churchwardens and overseers hereby directed to account as aforesaid, under their hands, of all sums of money by them received, or rated or assessed, and not received, and also of all goods, chattels, stock, and materials that shall be in their hands, or in the hands of any of the poor, in order to be wrought, and of all monies paid by such churchwardens and overseers so accounting, and of all other things concerning their said office ; and shall also pay and deliver over all sums of money, goods, chattels, and other things, as shall be in their hands, unto such succeeding overseers of the poor ; which said account shall be verified by oath, or by the affirmation of persons called Quakers, before one or more of His Majesty's justices of the peace, which said oath or affirmation such justice or justices is and are hereby authorized and required to administer, and to sign and attest the caption of the same, at the foot of the said account, without fee or reward ; and the said book or books shall be carefully preserved by the churchwardens and overseers, or one of them, in some public or other place in every parish, township, or place ; and they shall and are hereby required to permit any person there assessed, or liable to be assessed, to inspect the same, at all seasonable times, paying sixpence for such inspection, and shall, upon demand, forthwith give copies of the same, or any part thereof, to such person, paying at the rate of sixpence for every three hundred words, and so on in proportion for any greater or less number.

Books may be inspected, paying 6*d.* and copies taken, paying 6*d.* for 300 words.

Sect. 1.

Note.

special sessions, who might examine the overseers upon oath as to the truth of the account, and disallow any charge therein which they might think improper, and allow the account so audited. This statute was held to be cumulative upon, and not in substitution for 17 Geo. 2, c. 38, and overseers were therefore bound to deliver their accounts to their successors within fourteen days after their appointment, the same having meantime been duly audited by the justices in special sessions (*Lester's Case*, 16 East, 374).

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 47, as amended by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 38, power was given to the Poor Law Commissioners to call overseers and other poor law officers to account, by providing that "in addition to the annual account now by law required" (*i.e.*, by the enactments above referred to), overseers should as often as the orders of the commissioners should direct (but not less often than once in every half-year), render their accounts to the guardians or to auditors appointed by statute or order, or in default of such guardians or auditors to the justices of the peace in petty sessions, for the purpose of the same being audited, and should, if called upon to do so, verify the same upon oath.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32, provision was made for the appointment of district auditors to audit the poor law accounts of all parishes and unions within

Sect. 2.

Penalty on parish officers not accounting as this Act directs.

II. And . . . in case such churchwardens and overseers of the poor, or any of them, shall refuse or neglect to make and yield up such account, verified as aforesaid, within the time hereinbefore limited or appointed, or shall refuse or neglect to pay and deliver over such sum or sums of money, goods, chattels, and other things in their hands, as by this Act is directed, in either of the said cases it shall and may be lawful to and for any two or more justices of the peace to commit him or them to the common gaol, until he or they shall have given such account, or shall have paid and yielded up such monies, goods, chattels, and other things in their hands as aforesaid.

Sect. 1.

Note.

their respective districts, and by sect. 37, "in every district for which an auditor shall be appointed the power of justices of the peace and of all other persons to examine, audit, or allow or disallow accounts, shall so far as relates to any accounts which such auditor is authorized to examine and audit, cease and the same are hereby repealed."

Under this statute (17 Geo. 2, c. 38) it was necessary that the accounts of parish officers should state the items of expenditure (*Rex* v. *Hertfordshire JJ.*, 7 L. J. (o. s.) M. C. 73), and be accompanied by vouchers (*Rex* v. *Worcestershire JJ.*, 3 D. & R. 299).

The accounts which overseers are now bound to keep and furnish are regulated by the Gen. Ord. for Accounts, January 14th, 1867, arts. 1—5.

Inspection accounts.

The right of inspection conferred by this section is a private right, not a general right, and is given for the remedy of the evils contemplated by the statute; consequently, some grounds of a public nature beyond this private right must be shown in order to obtain a *mandamus* to permit inspection of such documents (*Rex* v. *Clear*, 4 B. & C. 899; *Ex p. Briggs*, 1 E. & E. 881; *Reg.* v. *Daventry*, 5 Jur. (N. S.) 940).

The right of inspecting and taking copies of rates is also given by the Poor Rate Act, 1743 (17 Geo. 2, c. 3), s. 2, and by the Parochial Amendment Act, 1836 (6 & 7 Will. 4, c. 96), s. 5).

Sect. 2.

Note.

It has been held that justices had a discretion and were not bound to commit an overseer for not accounting under this section (*Rex* v. *Norfolk JJ.*, 4 B. & Ad. 238).

A conviction by two justices under this statute, upon complaint of the overseers of a parish against the late overseer for refusing to deliver over the Bastardy Ledger, convicting him of the said offence, and adjudging that he should be committed to gaol "until he should have yielded up all and every the books concerning his said office of overseer belonging to the parish," was held void, as to the adjudication respecting the imprisonment, for excess, the same extending beyond what was previously required of the person convicted; and the warrant of commitment following the adjudication

Sect. 3.

On an overseer's dying, &c., two justices to choose another.

Overseer removing, shall deliver his accounts to the churchwarden.

Executors of overseers to account in forty days.

III. And . . . if any such overseer shall die or remove from the place for which he was appointed, or become insolvent, before the expiration of his office, on oath thereof made it shall be lawful for two justices of the peace to appoint another overseer in his stead, who shall continue in office until new overseers are appointed; and if any overseer shall remove as aforesaid, he shall, before such removal, deliver over to some churchwarden, or other overseer of the same place, his accounts, verified as aforesaid, with all rates, assessments, books, papers, sums of money, and other things concerning his office, under the like penalties as are inflicted by this Act on an overseer refusing to do the same after the expiration of his office; and if any overseer shall die as aforesaid, his executors or administrators shall, within forty days after his decease, deliver over all things concerning his office to some churchwarden or other overseer of the same place, and shall pay out of the assets left by such overseer, all sums of money remaining due, which he received by virtue of his said office, before any of his other debts are paid and satisfied.

Persons aggrieved may appeal to quarter sessions.

IV. And . . . in case any person or persons shall find him, her, or themselves aggrieved by any rate or assessment made for the relief of the poor, or shall have any material objection to any person or persons being put on or left out of such rate

---

Sect. 2.

Note.

was also held void *in toto*, and the justices liable in trespass (*Groome* v. *Forrester*, 5 M. & S. 314).

A *mandamus* lies to compel the old overseers to deliver over parish books to the new overseers (*Rex* v. *Clapham*, 1 Wils. 305).

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 47, all balances due from an overseer or assistant overseer may be recovered by summary process as penalties may be recovered under that Act; and by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32, all balances certified to be due by the district auditor may be recovered in the same manner.

Sect. 3.

Note.

In a rural parish the parish council, or if there is no parish council, the parish meeting, shall, as soon as may be, fill any casual vacancy occurring in the office of overseer, and give notice thereof to the guardians (Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 5 (1), 19 (5)).

Sect. 4.

Note.

The appeal to quarter sessions against overseers' accounts was in effect abolished by the provisions as to audit in the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32, 37, inasmuch as by the Poor Rate Act, 1810 (50 Geo. 3, c. 49), such accounts required to be first audited by justices, and audit by justices is abolished by 7 & 8 Vict. c. 101, s. 37.

RIGHT OF APPEAL.

The general right of appeal against a poor rate is given by the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 6.

By the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 6,

Sect. 4.

or assessment, or to the sum charged on any person or persons therein, or shall have any material objection to such account as aforesaid, or any part thereof, or shall find him, her, or themselves aggrieved by any neglect, act, or thing done or omitted by the churchwardens and overseers of the poor, or by any of His Majesty's justices of the peace, it shall and may be lawful for such person or persons, in any of the cases aforesaid, giving reasonable notice to the churchwardens or overseers of the poor of the parish, township or place, to appeal to the next general or quarter sessions of the peace for the county, riding, division, corporation, or franchise where such parish, township, or place lies; and the justices of the peace there assembled are hereby authorized and required to receive such appeal, and to hear and finally determine the same; but if it shall appear to the said justices that reasonable notice was not given, then they shall adjourn the said appeal to the next quarter sessions, and then and there finally hear and determine the same; and the said justices may award and order to the party for whom such appeal shall be determined, reasonable costs, in the same manner that they are empowered to do in case of appeals concerning the settlement of poor persons, by an Act made in the eighth and ninth years of King William the Third, intituled "An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom."

RIGHT OF APPEAL.—*continued.*

Sect. 4. Note.

an appeal lies to special sessions against a poor rate on the ground of irregularity, unfairness, or incorrectness in the valuation of hereditaments; and a further appeal lies to quarter sessions from the decision of the justices at the special sessions.

The High Court of Justice will not grant a *certiorari* to remove the rate, the allowance of it not being a judicial, but merely a ministerial act, and the remedy being by appeal (*Rex* v. *Uttoxeter*, 2 Str. 932; *Rex* v. *Shrewsbury JJ.*, 1 Sess. Ca. 201).

A person cannot appeal because he is not rated (*Rex* v. *George*, 6 A. & E. 305; 6 L. J. M. C. 34).

Two or more persons separately rated and aggrieved by the same rate may join in one appeal against it (*Rex* v. *White*, 4 T. R. 771; *Rex* v. *Sussex JJ.*, [1812] 15 East, 206).

By the Poor Law Audit Act (11 & 12 Vict. c. 91), s. 11, and by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 29, overseers of parishes and guardians of unions respectively may combine to defend appeals against poor rates which involve some common principle.

By the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 13, every owner of any hereditament for the rates of which he has become liable shall have the same right of appeal (subject to the same conditions and consequences) against the valuation lists and the poor rates as if he were the occupier thereof; and by the Valuation (Metropolis) Amendment Act, 1884 (47 & 48 Vict. c. 5), s. 2, in the metropolis owners and lessees liable to be assessed are entitled to appeal.

RIGHT OF APPEAL—*continued.*

Sect. 4.

Note.

A rate that has been made, allowed and published cannot be abandoned; the only mode of getting rid of it is by appealing against it and getting it quashed (*Rex* v. *Cambridge JJ.*, 2 A. & E. 270; 4 L. J. M. C. 8). But the overseers need not appear on the appeal, and if they improperly defend an appeal against a rate they do so at the risk of their expenses being disallowed by the auditor (*Reg.* v. *Fouch*, 2 Q. B. 308; 11 L. J. M. C. 1).

If a person rated appeals against the rate on the ground that he is over-rated, as well as on the ground that he has no rateable property in the parish, the onus is on the overseers to prove not only that he has some rateable property in the parish (*Rex* v. *Newbury*, 4 T. R. 475), but also to show some probable ground for the amount at which the party is rated (*Rex* v. *Topham*, [1810] 12 East, 546). But where the practice of the sessions was that an appellant complaining of being over-rated should begin and prove his case, and as he would not do so the sessions dismissed the appeal, the court refused a *mandamus* to the justices to hear the appeal, without, however, dissenting from the decision in *Rex* v. *Topham*, *supra* (*Rex* v. *Suffolk JJ.*, [1817] 6 M. & S. 57).

TO WHAT SESSIONS.

In boroughs within the Municipal Corporations Act, 1882, to which a separate court of quarter sessions is granted, the appeal is to the quarter sessions of the borough (Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 165; see *Reg.* v. *Suffolk JJ.*, 2 Q. B. 85; 10 L. J. M. C. 138); in those to which no such separate court is granted the appeal is to the sessions of the county in which the borough is situate. But where a parish was partly in a borough, partly in the adjoining county, and subject to the jurisdiction of the county justices only, and the occupier of premises in that part of the parish which was within the county appealed against a rate to the sessions of the county, the court held the appeal to be rightly brought (*Reg.* v. *Bridgewater*, 10 A. & E. 711; 3 Jur. 1123; *Reg.* v. *Salop JJ.*, 24 L. J. M. C. 14).

Where there is a notice of appeal to the borough sessions by mistake the notice may be treated as a notice of appeal for the county sessions (*Reg.* v. *Salop JJ.*, 24 L. J. M. C. 14).

Formerly, by 17 Geo. 2, c. 38, s. 5, *infra*, if there were not four justices in any borough or franchise, or by the Poor Law (Appeal) Act, 1820 (1 Geo. 4, c. 36), in corporations and franchises not having more than six justices of the peace, nor having jurisdiction or authority over two or more whole parishes or wards contained within them respectively, the party might, if he thought fit, appeal to the sessions of the county, or riding, or division, in which such corporation or franchise was situate (see *Rex* v. *Essex JJ.*, [1816] 5 M. & S. 513; *Rex* v. *Taunton*, 1 Bott., 6th ed., pl. 283); and this is still the law as to any corporations or franchises not within the Municipal Corporations Act.

It seems that an appeal against a poor rate, made in a parish in a union which extends into a quarter sessions borough and into the county may, by the operation of the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 27, be brought to the quarter sessions either of the borough or of the county, but the practice is to bring the appeal to the quarter sessions within whose jurisdiction the parish lies. But an appeal from special sessions should be brought in all cases to the quarter sessions, whose justices have jurisdiction

TO WHAT SESSIONS—*continued.*

Sect. 4.

Note.

in the special sessions (*Reg.* v. *Staffordshire JJ.*, 7 Q. B. 288; 41 L. J. M. C. 78; 36 J. P. 679; *Reg.* v. *Eaton*, 8 Q. B. D. 158; 46 J. P. 229).

The words "general or quarter sessions" mean quarter sessions as distinguished from special sessions, and in places where general sessions are held as well as quarter sessions, the appeal is properly brought to the quarter sessions and not to the general sessions (*Rex* v. *London JJ.*, [1812] 15 East, 632; *Reg.* v. *Middlesex JJ.*, 4 Q. B. 807), although a contrary assumption was made in the later case of *Liverpool United Gas Co.* v. *Everton*, L. R. 6 C. P. 414; 40 L. J. M. C. 104; S. C. *Reg.* v. *Liverpool, Recorder of*, 23 L. T. (N. S.) 813; 35 J. P. 186).

TO THE "NEXT" SESSIONS.

Under the statute of Elizabeth no time was limited for bringing the appeal, but by this section the appeal is to be brought to the next quarter sessions, that is to say, to the next practical sessions after the allowance and publication of the rate at which an effectual appeal could be had after the proper notices have been given (*Reg.* v. *Surrey JJ.*, [1880] 43 L. T. 500; 45 J. P. 93; *Rex* v. *Dorsetshire JJ.*, [1812] 15 East, 200; *Rex* v. *Sussex JJ.*, [1812] 15 East, 206; *Reg.* v. *Trafford*, 15 Q. B. 200).

It is not, however, imperative upon the justices to hear and determine the appeal at such sessions; they may adjourn the hearing until the following sessions (*Rex* v. *Wilts JJ.*, 8 B. & C. 380).

Since the Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict. c. 39), s. 1, the "next sessions" must be understood to mean the next practicable sessions after the decision of the assessment committee upon the objection of the appellant to the valuation list and the failure of the appellant to obtain relief thereby (*Lawes* v. *Arlsey*, 18 W. R. 293).

The subjoined cases may be taken as examples of what is meant by the "next practicable sessions," before and after passing of the 27 & 28 Vict. c. 39.

A rate was made on December 10th and another on January 5th; on January 13th a notice of appeal against these rates was given for the sessions to be holden on the 15th; and that appeal was dismissed on the ground of the insufficiency of the notice in not setting out the names of the persons said to have been improperly inserted or omitted in the rate: on April 12th a notice stating the names particularly was given for the next sessions, in which it was stated that the appellants would then apply to have the appeal re-heard; and on the day after new notices were given of three other appeals against the same rates; on April 23rd these four appeals came on to be heard, and the sessions dismissed the first appeal on the ground that they had no authority to re-hear an appeal dismissed at a former sessions; but they tried the three other appeals and quashed the rates; the order of sessions in the last three cases being removed, a motion was made to quash them on the ground that the appeals had not been made to the next sessions after the publication of the rate; and the court held that although the 43 Eliz. c. 2, s. 6, did not confine the appeal to the next quarter sessions after the publication of the rate, but allowed

TO THE "NEXT" SESSIONS—*continued.*

Sect. 4.

Note.

it to be made at any quarter sessions, that clause was virtually repealed by 17 Geo. 2, c. 38, s. 4, which required the appeal to be to the next general or quarter sessions; they accordingly quashed the orders of sessions (*Rex* v. *Coode*, 1 Bott., 6th ed., pl. 290).

A poor rate for the parish of Lambeth was made and allowed on Saturday, March 20th, and published on the following day. The next quarter sessions were held on April 6th, so that in order to give the fourteen days' notice required by 12 & 13 Vict. c. 45, s. 1, notice of appeal to the April sessions would have to be given on March 21st, the day after the publication of the rate. A ratepayer gave notice of appeal against the rate on June 7th for the then next sessions, which were held on July 5th. The court of quarter sessions refused to hear the appeal on the ground that it ought to have been brought to the April sessions. *Held* that an appellant against a poor rate is entitled to a reasonable time before giving notice of appeal, to allow of his considering whether he shall appeal and the grounds on which his appeal shall be based; that one day is not a reasonable time for that purpose; and that consequently the appellant was not bound to give notice of appeal for the April sessions. *Held* also that the appellant was not bound to enter and respite the appeal at the April sessions (*Reg.* v. *Surrey JJ.*, [1880] 6 Q. B. D. 100. [It will be noticed that this case, being a metropolitan case, was decided without reference to 27 & 28 Vict. c. 39, s. 1.] See also *Rex* v. *Hendon*, 2 D. & R. 249; *Rex* v. *Hertfordshire JJ.*, 2 B. & Ad. 561; 1 N. & M. 331; *Reg.* v. *Suffolk JJ.*, 8 Dowl. 618).

A rate was published on May 30th and notice of objection given by the appellant to the assessment committee on June 11th, and the committee sat and heard the objection on the 30th, which was the same day as the quarter sessions. It was held that the appellant could not have appealed at those sessions, as he had not at the time failed to obtain relief, and therefore that it was not too late to enter his appeal at the following October sessions (*Reg.* v. *Biggleswade Union*, 21 L. T. (N. S.) 495; 33 J. P. 791).

An assessment committee refused the appellants relief against a rate on August 3rd; the next sessions of the borough in which the rate was made took place on September 1st; at the following sessions, on October 26th, the appellants applied to enter an appeal against the rate, and the recorder granted the application on the ground that the sessions of September 1st were not the next practicable sessions; seven days being, in his opinion, insufficient time for the appellants to determine whether or not to give notice of appeal to the assessment committee under 27 & 28 Vict. c. 39, s. 1. Upon a rule for a prohibition, it was held that as this was a question of fact upon which the recorder's jurisdiction was based, the court had power to review his decision, and that he was wrong. *Per* Smith, J.: I wish to say that I think a week is long enough in this particular case; but I do not desire to lay it down that in every case no longer time ought to be allowed (*Liverpool United Gas Co.* v. *Everton*, L. R. 6 C. P. 414; 40 L. J. M. C. 104; S. C. *Reg.* v. *Liverpool, Recorder of*, 23 L. T. (N. S.) 813; 35 J. P. 186).

There is no objection to entering the appeal at an adjourned sessions, as may be done in an appeal against an order of removal, if the practice of the court of quarter sessions will warrant it (*Rex*

TO THE "NEXT" SESSIONS—*continued.*

Sect. 4. Note.

v. *Sussex JJ.*, [1797] 7 T. R. 107), although the appellant is not bound to do so (*Rex* v. *Surrey JJ.*, [1813] 1 M. & S. 479; *Reg.* v. *Lancashire JJ.*, 34 L. T. (N. S.) 124; 40 J. P. 438).

NOTICE OF APPEAL.

Instead of the "reasonable" notice required to be given by this section, it is now provided by the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 1, that fourteen clear days' notice of appeal at least shall be given, and such shall be sufficient notice; which notice shall be in writing, signed by the person giving the same or his attorney, and the ground of appeal shall be specified in the notice.

By the Poor Rate Act, 1801 (41 Geo. 3, c. 23), s. 4, the notice must be signed by the appellant or his attorney and delivered to or left at the places of abode of the churchwardens and overseers, or two of them, and the particular grounds of appeal must be stated in such notice. In rural parishes churchwardens having ceased to be overseers are no longer to be served with notice (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (3)), but the overseers must, notwithstanding sect. 6 (1) (c) of that Act, still be served. And it is not necessary to serve notice upon the parish council, nor upon the district council of an urban district upon which parish council powers have been conferred by order of the Local Government Board (*Reg.* v. *De Grey*, [1900] 1 Q. B. 521, dissenting from a contrary decision in *Reg.* v. *Kent JJ.*, 80 L. T. 622).

Where a notice of appeal was served on the collector instead of on the overseer a *mandamus* was issued to the justices to enter and respite the appeal (*Shrewsbury and Hereford Ry. Co.* v. *Leominster*, 21 J. P. 149).

By the Poor Rate Act, 1801 (41 Geo. 3, c. 23), s. 6, if the ground of appeal is that some other person is omitted from the rate or insufficiently rated, notice of appeal must also be given to any such person whose assessment may be affected by the appeal.

By the Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict. c. 39), s. 1, no appeal against a poor rate can be heard unless the appellant shall have given notice to the assessment committee of objection to the valuation list on which the rate is made and have failed to obtain relief, and also shall have given twenty-one days' notice of appeal in writing, with the grounds of appeal, to the assessment committee.

COSTS.

By the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 5, a general power of awarding costs is given to quarter sessions upon all appeals.

Formerly there must have been a determination of the appeal as a condition precedent to awarding costs, so that no costs could be given if the notice of appeal were countermanded before the day for holding the sessions (*Rex* v. *Essex JJ.*, [1800] 8 T. R. 583); although costs might be given if the appeal were entered and respited, and before the adjourned sessions notice were given by the respondents that they withdrew opposition and the rate was accordingly quashed (*Rex* v. *Causton*, 4 D. & R. 445), or if the

Sect. 5.

Proviso for corporations, &c.

V. Provided always, that in all corporations or franchises, who have not four justices of the peace, it shall and may be lawful for any person or persons, in any of the cases aforesaid where an appeal is given by this Act, to appeal, if he or they shall think fit, to the next general or quarter sessions of the peace for the county, riding, or division wherein such corporation or franchise is situate.

[See note to sect. 4, *supra*, "To what Sessions," p. 220.]

How far justices shall give relief on appeals.

VI. And whereas it hath been held, that upon appeals from rates and assessments, the justices of the peace may not only quash the old rates, but make new rates and assessments from which no appeal can be had: Be it enacted by the authority aforesaid, that upon all appeals from rates and assessments, the justices of the peace (where they shall see just cause to give relief) shall and are hereby required to amend the same, in such manner only as shall be necessary for giving such relief, without altering such rates or assessments with respect to other persons mentioned in the same; but if upon appeal from the whole rate, it shall be found necessary to quash or set aside the same, then and in every such case the said justices shall and are hereby required to order and direct the churchwardens and overseers of the poor to make a new equal rate or assessment, and they are hereby required to make the same accordingly.

COSTS—*continued.*

Sect. 4.

Note.

appeal were entered and the appellant did not appear to support his appeal (*Rex* v. *Essex JJ.*, [1830] 1 D. P. C. 539). But by the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 49), s. 6, costs may be given to parties receiving notice of appeal, although the appeal is not afterwards prosecuted or entered.

The previous sanction of the vestry is not necessary to authorize overseers in proceeding with an appeal against a poor rate; and if they do not act *malâ fide* or improvidently, they will be justified in paying the costs out of the poor rates (*Reg.* v. *Street*, 18 Q. B. 682; 22 L. J. M. C. 29; 16 Jur. 1085; 16 J. P. 359). Overseers, however, may be disallowed the costs of defending an appeal if the rate be manifestly bad (*Reg.* v. *Fouch*, 2 Q. B. 308; 11 L. J. M. C. 1).

As to costs of appeals against a poor rate generally, see notes and cases collected under 12 & 13 Vict. c. 45, ss. 4, 10.

Sect. 6.

Note.

Under the Poor Relief Act, 1601 (43 Eliz. c. 2), the sessions only had power upon appeal against a poor rate to quash or allow the rate; they could not amend it. They assumed, however, the power themselves of making new rates against which there was no appeal. The present section was enacted to cure these defects, but as under this section if the whole rate was appealed against it was bound to be quashed or allowed as a whole, and as there was no provision for

Sect. 7.

Clause relating to warrants of distress.

VII. And for the more effectual levying money assessed for the relief of the poor, be it enacted by the authority aforesaid, that the goods of any person assessed, and refusing to pay, may be levied by warrant of distress, not only in the place for which such assessment was made, but in any other place within the same county or precinct; and if sufficient distress cannot be found within the said county or precinct, on oath made thereof before some justice of any other county or precinct (which oath shall be certified under the hand of such justice on the said warrant) such goods may be levied in such other county or precinct by virtue of such warrant and certificate; and if any person shall find him or herself aggrieved by such distress as aforesaid, it shall and may be lawful for such person to appeal to the next general or quarter sessions of the peace for the county or precinct where such assessment was made, and the justices there are hereby required to hear and finally determine the same.

Appeal to quarter sessions.

Sect. 6.

Note

raising money between the quashing of the old rate and the allowance of a new rate, the Poor Rate Act, 1801 (41 Geo. 3, c. 33), was passed, which put the law as to the powers of sessions on appeal on its present footing. (See notes and cases collected under sect. 1 of that Act.)

Sect 7.

Note.

The power to distrain generally for the poor rate is given by the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 2.

By the Poor Rate Act, 1801 (41 Geo. 3, c. 23), s. 2, notice of appeal against a poor rate does not prevent distress being made for the recovery of the rate, but limits it to the amount assessed in the last effective rate.

By the Poor Relief Act, 1814 (54 Geo. 3, c. 170), s. 12, the provisions of this section are extended to other rates besides the poor rate.

By the Justices Protection Act, 1848 (11 & 12 Vict. c. 44), s. 4, no action lies against justices for issuing a distress warrant for poor rates.

Before this statute a distress was well levied on goods in B. parish belonging to a ratepayer in A. parish in respect of a poor rate made upon the latter parish (*Hampton* v. *Lammas*, 1 Ld. Raym. 735).

When a person is rated to the poor rate in respect of property not in his occupation and distrained upon for the amount he is not bound to appeal, but may replevy the distress (*Bristol* v. *Wait*, 1 A. & E. 264; 3 N. & M. 359).

The right of appeal given by this section applies only to warrants executed beyond the jurisdiction of the justice who issued them, and the section does not enable a person within such jurisdiction, against whom a warrant has been issued, to appeal against the warrant (*Eldridge* v. *Payne*, 48 J. P. 72).

An appellant against a distress warrant issued to enforce payment of poor rates cannot, under this section, avail himself of any objection which he might have urged against the rate itself, on appeal to the sessions under sect. 4 of the same Act. Nor will the court

Sect. 8.

Clause to prevent vexatious actions against overseers.

VIII. And to prevent all vexatious actions against overseers of the poor, be it enacted by the authority aforesaid, that where any distress shall be made for any sum or sums of money justly due for the relief of the poor, the distress itself shall not be deemed to be unlawful, nor the party or parties making it be deemed a trespasser or trespassers, on account of any defect or want of form in the warrant for the appointment of such overseers, or in the rate or assessment, or in the warrant of distress thereupon; nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio*, on account of any irregularity which shall be afterwards done by the party or parties distraining, but the party or parties aggrieved by such irregularity shall or may recover full satisfaction for the special damage he, she, or they shall have sustained thereby, and no more, in an action of trespass, or on the case, at the election of the plaintiff or plaintiffs.

[Sect. 9. *Plaintiff recovering to have full costs.* Sect. 10. *Tender of amends in case of irregularity.* Repealed by the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61).]

Succeeding overseers to levy arrears, to reimburse the former.

XI. And . . . in case any person or persons shall refuse or neglect to pay to such overseers as aforesaid any sum or sums of money that he, she, or they shall be legally rated or assessed to, it shall and may be lawful to and for the succeeding overseers and they are hereby required to levy such arrears, and out of the money so levied to reimburse their predecessors all sums of money which they have expended for the use of the poor, and which are allowed to be due to them in their accounts as aforesaid.

Sect. 7. Note.

grant a *mandamus* to justices to hear such an appeal against the warrant, if the application discloses no grounds of appeal other than the grounds which might have been urged against the rate (*Reg.* v. *Kent JJ.*, 16 L. T. (N. S.) 673).

An appeal will not lie against the issue of a distress warrant for poor rate before the distress has been levied (*Reg.* v. *London JJ.*, [1899] 1 Q. B. 532.

Sect. 8. Note.

Such actions will now be subject to the provisions of the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61).

Sect. 11. Note.

The Poor Relief Act, 1601 (43 Eliz. c. 2), s. 2, already empowered subsequent overseers to levy arrears, and this section is not to be considered as limiting the power of levying arrears and reimbursing preceding overseers to their immediate successors in office (*East Dean* v. *Everett*, 3 E. & E. 574; 30 L. J. M. C. 117; 7 Jur. (N. S.) 124; 3 L. T. (N. S.) 700; 9 W. R. 312).

As to the liability of overseers for the debts of their predecessors, see the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), ss. 1, 2.

Sect. 12.
Clause concerning persons moving out of parishes.

XII. And whereas persons frequently remove out of parishes and places without paying the rates assessed on them, and other persons do enter and occupy their houses or tenements part of the year, by reason whereof great sums are annually lost to such parishes and places: Be it therefore enacted by the authority aforesaid, that where any person or persons shall come into or occupy any house, land, tenement, or hereditament, or other premises out of or from which any other person assessed shall be removed, or which at the time of making such rate was empty or unoccupied, that then every person so removing from and every person so coming into or occupying the same shall be liable to pay such rate in proportion to the time that such person occupy the same respectively in the same manner, and under the like penalty of distress, as if such person so removing had not removed, or such person so coming in or occupying had been originally rated and assessed in such rate; which said proportion, in case of dispute, shall be ascertained by any two or more of His Majesty's justices of the peace.

Copies of rates to be entered in a book,

XIII. And . . . true and just copies of all rates and assessments hereafter to be made for the relief of the poor, be fairly wrote and entered in a book or books to be provided for that purpose by the churchwardens and overseers of the poor of every parish, township, or place, who shall take care that such copies be wrote and entered accordingly, within fourteen days after all appeals from such rates are determined, and shall

---

Sect. 11.
Note.

Arrears of previous rates may be levied for even when they have not been demanded at the proper time through a mistake of the overseers. The London and South Western Railway Company were assessed in the rate-book at a proper amount towards a rate to be made and recovered in the same manner as the poor rate, but the overseers, by mistake, thinking that they were incorrectly rated, only demanded and were paid one-third of the proper rate. This continued for four years. In the fifth year the overseers discovered their mistake, and sought to recover the unpaid two-thirds for the preceding four years as arrears under sect. 11 of 17 Geo. 2, c. 38. The justices having refused to issue a warrant on the ground that the overseers were estopped by the mistake in law of their predecessors, the court issued a *mandamus* to the justices to issue the warrant (*Reg.* v. *Blenkinsop*, [1892] 1 Q. B. 43; 61 L. J. M. C. 45; 66 L. T. 187; 40 W. R. 272; 56 J. P. 246).

Sect. 12.
Note.

This section is repealed by the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 16, and replaced by that section. It is printed here, as the question has been raised whether there is now any provision for determining the proportion payable by the outgoing and incoming tenants, as the last sentence of the section is not re-enacted.

Sect. 13.
Note.

The proper place of custody of parish documents is the parish chest (*Reg.* v. *Eaton*, 10 Jur. 222); but the workhouse of a union has been held not to be an improper repository for parish documents of a parish within the union, so as to make them inadmissible in

Sect. 13. to be kept for public perusal.

attest the same by putting their names thereto; and all and every such book or books shall be carefully preserved by the churchwardens and overseers of the poor for the time being, or one of them, in some public or other place in every such parish, township, or place, whereto all persons assessed, or liable to be assessed, may freely resort, and shall be delivered over from time to time to the new and succeeding churchwardens and overseers of the poor as soon as they enter into their said offices, to be preserved as aforesaid, and shall be produced by them at the general or quarter sessions, when any appeal is to be heard or determined.

Penalty on parish officers not obeying this Act.

XIV. And . . . if any churchwarden, overseer of the poor, or other officer of any parish, township, or place, shall neglect or refuse to obey and perform the several orders and directions of this Act, or any of them, where no penalty is before provided by this Act, or shall act contrary thereto, every such churchwarden, overseer of the poor, or other officer so offending in the premises, shall for every such offence, on oath thereof made within two calendar months after the offence committed, before any two or more of His Majesty's justices of the peace, forfeit, for the use of the poor of such parish, township, or place, a sum not exceeding five pounds, nor less than twenty shillings, to be levied by distress and sale of the offender's goods, by warrant from such justices, which sum shall be paid to some churchwarden or overseer of the poor of such parish, township, or place, for the purpose aforesaid.

Sect. 13. Note.

evidence when produced thence (*Slater* v. *Hodgson*, 9 Q. B. 727; 2 N. S. C. 488).

Further provision is made for the safe custody of parish documents by the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 6; the Poor Rate Act, 1839 (2 & 3 Vict. c. 84), s. 3; the Vestries Act, 1850 (13 & 14 Vict. c. 57), s. 7; the Parochial Offices Act, 1861 (24 & 25 Vict. c. 125), ss. 1, 2; and the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (c) (i).

This Act does not give the overseers authority to hire an office or room for the purpose of carrying on their business; it merely authorizes them to make provision for the deposit of parish documents, and a room for that object does not require fire or gas (*Ex parte Sportland*, 2 L. T. (N. S.) 214; 24 J. P. 323).

Sect. 14. Note.

The Poor Relief Act, 1601 (43 Eliz. c. 2), s. 1, imposed a penalty on overseers of 20*s.* for negligence in their duty; the Parish Officers Act, 1793 (33 Geo. 3, c. 55), s. 1, imposes a penalty of 40*s.* for neglecting duty or disobeying order of justices. By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 95, a penalty of 5*l.* is imposed on any parish officer wilfully disobeying the legal and reasonable orders of the justices and guardians in carrying into execution the rules, &c., of the Local Government Board, or the provisions of the Poor Law Acts; and by sect. 98 of that Act, wilful neglect of, or disobedience to, the orders, rules, or regulations

Sect. 15.

Power of overseers, where there are no churchwardens.

XV. And . . . overseers of the poor, within every township or place where there are no churchwardens, shall from time to time do, perform, and execute all and every the acts, powers, and authorities concerning the relief of, and other matters and things relating to the poor, as churchwardens and overseers of the poor may do, perform, and execute by this Act, or any former statute concerning the poor, and shall lose, forfeit, and suffer all such pains and penalties for neglect, abuse, or non-performance thereof, as churchwardens and overseers of the poor are liable to by virtue of this or any former statute concerning the poor.

SALE OF SPIRITS ACT, 1750.*

24 GEO. II., CHAP. 40.

An Act . . . for the more effectually Restraining the Retailing of distilled Spirituous Liquors. . . .

[The whole of this Act except the sections here printed is repealed by the S. L. R. Act, 1867.]

* * * * *

No debt under 20*s.* for spirituous liquors, contracted at one time, recoverable, &c.

XII. And . . . from and after the said first day of July one thousand seven hundred and fifty-one, no person or persons whatsoever shall be entitled unto or maintain any cause, action, or suit for, or recover either in law or equity, any sum or sums of money, debt, or demands whatsoever, for or on account of any spirituous liquors, unless such debt shall have really been and *bonâ fide* contracted at one time, to the amount of twenty shillings or upwards, nor shall any particular article or item in any account or demand for distilled spirituous liquors be allowed or maintained, where the liquors delivered at one time, and mentioned in such article or item, shall not amount to the full value of twenty shillings at the least,† and that without fraud or covin, and where no part of the liquors so

* Better known as "The Tippling Act."

† The foregoing part of this section is repealed by 25 & 26 Vict. c. 38, so far as it relates to spirituous liquors sold to be consumed elsewhere than on the premises where sold, and delivered at the residence of the purchaser thereof in quantities not less at any one time than a reputed quart.

Sect. 14.

Note.

of the Local Government Board is punishable by justices, for a first offence by a fine not exceeding 5*l.*, for a second offence by a fine of not exceeding 20*l.*, nor less than 5*l.*; a third offence is a misdemeanour, and punishable on indictment by a fine of not less than 20*l.* and imprisonment.

Sect. 15.

Note.

In rural parishes churchwardens have ceased to be overseers (Local Government Act, 1894 (56 & 57 Vict. c. 75), s. 5).

Sect. 12.

Retailer taking a pledge for liquors, to forfeit 40*s*.

sold or delivered shall have been returned or agreed to be returned directly or indirectly; and in case any retailer of spirituous liquors, with or without a licence, shall take or receive any pawn or pledge from any person or persons whatsoever by way of security for the payment of any sum or sums of money owing by such person or persons for such spirituous liquors or strong waters, every such person or persons offending herein shall forfeit and lose the sum of forty shillings for each and every pawn or pledge so taken in or received by him or them, to be levied and recovered by warrant under the hand and seal of one justice of the peace where the offence is committed; and . . . one moiety thereof shall be to the use of the poor of the parish where such offence is committed, and the other moiety to the informer or informers; and the person or persons to whom any such pawn or pledge doth or shall belong shall have the same remedy for recovering such pawn, or the value thereof, as if it had never been pledged.

Application of the penalty.

Owner may recover his pledge.

No licence to be granted for retailing spirituous liquors within gaols, houses of correction, workhouses or houses of entertainment for parish poor.

Keeper, &c., suffering spirituous liquors to be used there, &c.,

except such as shall be medicinally prescribed,

to forfeit 100*l*..

XIII. And . . . no licence shall be granted for the retailing of spirituous liquors within any gaol, prison, house of correction, workhouse, or house of entertainment for any parish poor, and . . . all licences granted or to be granted contrary to this provision shall be void and of no effect from and after the said first day of July one thousand seven hundred and fifty-one; and if any gaoler, keeper, or officer of any gaol, prison, or house of correction, or any governor, master, or officer of any workhouse, or house for the entertainment of any parish poor, shall sell, use, lend, or give away, or knowingly permit or suffer any spirituous liquors or strong waters to be sold, used, lent, or given away in any such gaols, prisons, or houses of correction, or brought into the same, other than and except such spirituous liquors or strong waters as shall be prescribed or given by the prescription and direction of a regular physician, surgeon, or apothecary, and to be applied in pursuance of such prescription from the shop of some regular apothecary, every such gaoler, keeper, governor, master, or other officer shall for every such offence forfeit and lose the sum of one hundred pounds, one moiety thereof to His Majesty, and the other moiety thereof, with full costs of suit, to such person or persons as will sue for the same, in any of His Majesty's Courts of Record at Westminster or in the Court of Exchequer in Scotland, by action of debt, bill, plaint, or information, wherein no essoin, privilege, protection, wager of law, or more than one imparlance shall be granted or allowed; and in case any such gaoler or

---

Sect. 13.

Note.

Sects. 13—16 are repealed by 4 Geo. 4, c. 64, s. 1, as to gaols and houses of correction to which that Act extended, and that Act is itself repealed by 28 & 29 Vict. c. 126, s. 73.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 93, a penalty of 20*l*. is imposed upon masters of workhouses allowing the use of spirituous liquors in workhouses contrary to the rules, &c., of the Local Government Board.

other officer, being convicted thereof as aforesaid, shall again offend in like manner, and be therefore a second time lawfully convicted, such second offence shall be deemed a forfeiture of his office.

Sect. 13.

and for a second offence, to forfeit his office.

XIV. And . . . from and after the said first day of July one thousand seven hundred and fifty-one, it shall and may be lawful for His Majesty's justices of the peace, or any one of them, upon information upon oath, that any such spirituous liquors or strong waters are kept and disposed of in any such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor, in Great Britain, to enter and search, or to authorize and empower any constable, headborough, or other peace officer of the parish where any such places are situated, by warrant under his hand and seal to enter and search any such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor; and in case any spirituous liquors or strong waters shall be found therein (except such as are directed to be used medicinally as aforesaid), it shall and may be lawful for such constable, headborough, or overseer of the poor to seize such spirituous liquors or strong waters and to cause the same to be forthwith staved and destroyed.

Justices, upon information that spirituous liquors are kept, &c., in such houses, may enter and search, or empower any constable so to do,

and seize and stave the same.

[See note to sect. 13, *supra*.]

XV. And . . . no person shall carry or bring, or attempt or endeavour to carry or bring, any distilled spirituous liquors (except to be used in the way of medicine as herein-before mentioned) into any gaol, prison, house of correction, workhouse, or house of entertainment for parish poor; and if any person or persons shall offend therein, it shall be lawful for the gaoler, keeper, master, or chief officer of such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor, or his or their servants, to apprehend such person or persons, and to carry him, her, or them before a justice of the peace for the county, division, city, town corporate, or liberty where such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor is situate (who is hereby empowered to hear and determine such offence in a summary way, and to administer an oath to the witnesses),

Persons carrying, &c., spirituous liquors into such houses,

to be taken before a justice;

See note to sect. 13, *supra*.

Sect. 15.

Note.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 92, a penalty of 10*l*. is imposed upon any person introducing spirituous liquors into a workhouse without the written order of the master.

By the Gen. Cons. Ord., July 24th, 1847, paupers above the age of fourteen introducing, or attempting to introduce, any spirituous or fermented liquor into the workhouse, may forthwith be taken by the master before a justice to be dealt with according to law.

Sect. 15.

and on conviction to be committed, or pay a sum not exceeding 20*l.* nor less than 10*l.*

Application of the forfeiture.

and if by the oath of one credible witness, or otherwise, he shall convict such person or persons of such offence, he shall forthwith commit such offender or offenders to prison or to the house of correction, there to be kept in custody for any time not exceeding three months, without bail or mainprize, unless such offenders respectively shall immediately pay down such sum or sums of money, not exceeding twenty pounds and not less than ten pounds, as the justice shall impose upon such offenders severally as their fines, to be paid, one moiety to the informer, and the other moiety to the use of the poor of such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor.

A fair copy of the three preceding clauses, to be always kept hung up in the most public place of such gaol, &c. under penalty of 40*s.*

XVI. And . . . every gaoler, keeper, master, and chief officer of every gaol, prison, house of correction, workhouse, and house of entertainment for any parish poor, shall on or before the first day of August, one thousand seven hundred and fifty-one, procure one or more copy or copies of the three preceding clauses to be printed or fairly written, and hung up in one of the most public places of his gaol, prison, house of correction, workhouse, or house of entertainment for parish poor, and renew the same from time to time, so that it may be always kept fair and legible, on pain of forfeiting the sum of forty shillings for every wilful default, to be levied by warrant of any justice of the peace of the county, division, city, town corporate, or liberty where such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor shall be situate, to be granted on conviction of such default, in a summary way before such justice, by the oath of one or more credible witness or witnesses (which oath such justice is hereby empowered to administer); and it shall and may be lawful for every justice of peace to enter into any gaol, prison, house of correction, workhouse, or house of entertainment for parish poor, within the limits of its jurisdiction, and demand a sight of such copy so hung up as aforesaid; and if the same be not forthwith shown to him so hung up in some public place, fair and legible as aforesaid, such justice shall and may immediately convict such gaoler, keeper, master, or officer of such default, and so from time to time, as often as he shall think fit, one moiety of the said penalty to be paid to the informer, and the other moiety (or the whole if there be no informer) to the use of the poor of such gaol, prison, house of correction, workhouse, or house of entertainment for parish poor.

Justice may enter and demand a sight thereof:

and if the same be not fair and legible, may convict the gaoler, &c.

Application of the penalty.

* * * * *

Sect. 16.

Note.

See note to sect. 13, *supra*.

A similar provision to that in this section as to exposing copies of the preceding sections in a workhouse is contained in sect. 94 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76).

Sect. 31.

Persons sued for any thing done in the execution of this Act, entitled to the benefit of the Act of 11 Geo. 2, c. 26.

XXXI. And . . . all persons sued or prosecuted for any thing done in or relating to the execution of this present Act shall be entitled to all the privileges and benefits for their legal defence that are provided or enacted in or by an Act of Parliament made in the eleventh year of His Majesty's reign (intituled An Act for the enforcing the execution of an Act made in the ninth year of His Majesty's reign, intituled An Act for laying a duty on the retailers of spirituous liquors, and for licensing the retailers thereof), for persons employed in the execution of the said Act.

* * * * *

DISORDERLY HOUSES ACT, 1751.

25 GEO. II., CHAP. 36.

An Act for the better preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing Persons keeping Disorderly Houses.

[So much only of this Act is annotated here as relates to the duties and liabilities of overseers.]

[Sect. 1 repealed by the S. L. R. Act, 1867.]

II. And whereas the multitude of places of entertainment for the lower sort of people is another great cause of thefts and robberies, as they are thereby tempted to spend their small substance in riotous pleasures, and in consequence are put on unlawful methods of supplying their wants and renewing their pleasures: In order, therefore, to prevent the said temptation to thefts and robberies, and to correct as far as may be the habit of idleness which is becoming too general over the whole kingdom, and is productive of much mischief and inconvenience, be it enacted by the authority aforesaid, that from and after the first day of December one thousand seven hundred and fifty-two, any house, room, garden, or other place kept for public dancing, music, or other public entertainment of the like kind, in the cities of London and Westminster, or within twenty miles thereof, without a licence had for that purpose from the last preceding Michaelmas quarter sessions of the peace to be holden for the county, city, riding, liberty, or division in which such house, room, garden, or other place is situate (who are hereby authorized and empowered to grant

Unlicensed places of public entertainment deemed disorderly houses.

Sect. 31. Note.

The Act of 11 Geo. 2, c. 26, now repealed by the S. L. R. Act, 1867, provided for removing from inferior courts into any of the courts at Westminster any actions against a justice or other person employed in the execution of this Act for any thing done in pursuance of this Act.

Sect. 2.

such licences as they in their discretion shall think proper), signified under the hands and seals of four or more of the justices there assembled, shall be deemed a disorderly house or place; and every such licence shall be signed and sealed by the said justices in open court, and afterwards be publicly read by the clerk of the peace, together with the names of the justices subscribing the same; and no such licence shall be granted at any adjourned sessions, nor shall any fee or reward be taken for any such licence; and it shall and may be lawful to and for any constable or other person, being thereunto authorized by warrant under the hand and seal of one or more of His Majesty's justices of the peace of the county, city, riding, division, or liberty where such house or place shall be situate, to enter such house or place, and to seize every person who shall be found therein, in order that they may be dealt with according to law; and every person keeping such house, room, garden, or other place, without such licence as aforesaid, shall forfeit the sum of one hundred pounds to such person as will sue for the same, and be otherwise punishable as the law directs in cases of disorderly houses.

Constables may enter and seize all persons found therein.

Persons keeping the same to forfeit 100*l*.

Licensed places to have an inscription over them;

III. Provided always, and it is hereby further enacted by the authority aforesaid, that, in order to give public notice what places are licensed pursuant to this Act, there shall be affixed and kept up in some notorious place over the door or entrance of every such house, room, garden, or other place kept for any of the said purposes, and so licensed as aforesaid, an inscription in large capital letters in the words following: *videlicet*, LICENSED PURSUANT TO ACT OF PARLIAMENT OF THE TWENTY-FIFTH OF KING GEORGE THE SECOND; and that no such house, room, garden, or other place, kept for any of the said purposes, although licensed as aforesaid, shall be open for any of the said purposes before *the hour of five in the afternoon;* and that the affixing and keeping up of such inscription as aforesaid, and the said limitation or restriction in point of time, shall be inserted and made conditions of every such licence; and in case of any breach of either of the said conditions such licence shall be forfeited, and shall be revoked by the justices of the peace in their next general or quarter sessions, and shall not be renewed, nor shall any new licence be granted to the same person or persons, or any other person on his or their or any of their behalf, or for their use or benefit, directly or indirectly, for keeping any such house, room, garden, or other place for any of the purposes aforesaid.

and not be opened before five in the evening.

On breach of either of the said conditions the licence to be revoked.

The theatres and other places licensed

IV. Provided always, that nothing in this Act contained shall extend or be construed to extend to the theatres royal

Sect. 3. Note.

By 38 & 39 Vict. c. 21, s. 1, the words "the hour of noon" are substituted for the words "the hour of five in the afternoon," where they occur in this section.

Sect. 4.

by the Crown or Lord Chamberlain excepted out of this Act.

in Drury Lane and Covent Garden, or the theatre commonly called the King's Theatre, in the Haymarket, or any of them, nor to such performances and public entertainments as are or shall be lawfully exercised and carried on under or by virtue of letters patents or licence of the Crown, or the licence of the Lord Chamberlain of His Majesty's household, anything herein contained notwithstanding.

Constable's duty upon notice given him of persons keeping a bawdy-house, gaming-house, or other disorderly houses, &c.

V. And in order to encourage prosecutions against persons keeping bawdy-houses, gaming-houses, or other disorderly houses, be it enacted by the authority aforesaid, that if any two inhabitants of any parish or place, paying scot and bearing lot therein, do give notice in writing to any constable (or other peace officer of the like nature, where there is no constable) of such parish or place of any person keeping a bawdy-house, gaming-house, or other disorderly house in such parish or place, the constable, or such officer as aforesaid, so receiving such notice, shall forthwith go with such inhabitants to one of His Majesty's justices of the peace of the county, city, riding, division, or liberty in which such parish or place does lie, and shall upon such inhabitants making oath before such justice that they do believe the contents of such notice to be true, and entering into a recognizance in the penal sum of twenty pounds each to give or produce material evidence against such person for such offence, enter into a recognizance in the penal sum of thirty pounds to prosecute with effect such person for such offence at the next general or quarter session of the peace, or at the next assizes to be holden for the county in which such parish or place does lie, as to the said justice shall seem meet; and such constable or other officer shall be allowed all the reasonable expenses of such prosecution, to be ascertained by any two justices of the peace of the county, city, riding, division, or liberty where the offence shall have been committed, and shall be paid the same by the overseers of the poor of such parish or place; and in case such person shall be convicted of such offence, the overseers of the poor of such parish or place shall forthwith pay the sum of ten pounds to each of such inhabitants; and in case such overseer shall neglect or refuse to pay such constable or other officer such expenses of the prosecution as aforesaid, or shall neglect or refuse to pay, upon demand, the

The charges of prosecution to the constable.

and 10*l.* on conviction, to each of the two inhabitants, to be paid by the

---

Sect. 5.

Note.

By the Disorderly Houses Act, 1818 (58 Geo. 3, c. 70), s. 7, the notices directed by this section to be given to constables are to be given also to the overseers of the poor, who may prosecute in lieu of constables.

By the Criminal Law Amendment Act 1885 (48 & 49 Vict. c. 69), s. 13 (for the suppression of brothels), the enactments contained in sects. 5, 6 and 7 of this Act, as amended by 58 Geo. 3, c. 70, s. 7, are to be deemed to apply to prosecutions under that section.

In order to entitle a person to claim the reward payable under these statutes, it is necessary that the prosecution should be

Sect. 5.

overseers, on penalty of forfeiting double the sum.

said sums of ten pounds and ten pounds, such overseers and each of them shall forfeit to the person entitled to the same double the sum so refused or neglected to be paid.

Sect. 5.

Note.

conducted by the constable. It is not sufficient if the prosecution is conducted by the informing inhabitants (*Clark* v. *Rice*, 11 B. & Ald. 694).

Where a recognizance has been entered into under this section the jurisdiction of the borough sessions to try the offence is not taken away (*Reg.* v. *Charles*, 7 Jur. (N. S.) 1308).

In an action by A., an inhabitant of K., against C. and D., as overseers, to recover the sum due under the above statutes, it appeared that A. and another inhabitant B. had given the requisite notices with respect to a disorderly house kept by E., and that E. was prosecuted and pleaded guilty, while F. and G. were overseers of the parish: and that after C. and D. came into office E. was called up for judgment and sentenced. A. thereupon demanded in writing the sum of 10*l.* from C. and D., but they refused to pay it. There were churchwardens in the parish, but no demand had been made against them. *Held* that E. was not to be considered as *convicted* until the judgment of the court upon the indictment against him was properly pronounced; and, therefore, that the demand for the award was properly made upon, and the action rightly brought against C. and D., and that their predecessors F. and G. were not liable. *Held*, also, that it is not necessary that the demand should be made in writing. *Held*, also, that it was not necessary to make the demand upon the churchwardens as well as upon C. and D., the overseers, or to join the former in the action; and that the action was well brought against the latter, upon whom the demand was made. *Quære*, whether churchwardens are included in the term "overseers" in the statute, so as to be liable to be called upon to pay the reward (*Burgess* v. *Boetefleur*, 7 M. & G. 481; 13 L. J. M. C. 122; 8 Jur. 621; 8 J. P. 358).

Where the keeper of a disorderly house had upon prosecution merely been bound over to come up for judgment when called upon, *held* that there had been such a *conviction* as entitled the informing inhabitants to the reward (*Jephson* v. *Barker*, 3 T. L. R. 40).

It is optional to comply with the preliminaries set forth in 25 Geo. 2, c. 36, and 58 Geo. 3, c. 70, so as to secure a reward, or to omit those preliminaries and prove the case in the ordinary way, dispensing with such reward (*Kerwin* v. *Hines*, 54 L. T. (N. S.) 610; 50 J. P. 230; *Chippendale* v. *Hirst*, Law. Jour. (1887), p. 193).

The constable mentioned in this section must be one of the parish constables where these exist, and an inspector of police in the metropolis is not a parish constable for this purpose. The constable must be the real prosecutor; it is not sufficient if the prosecution has been really undertaken and the costs found by a vigilance committee. The costs are not ascertained by two justices if they are taxed by the clerk of the peace, and merely signed by two justices. And the penalty of double the sum refused or neglected to be paid cannot be recovered against an overseer unless there has been an individual demand upon him (*Garland* v. *Ahrbeck*, 5 T. L. R. 91).

Sect. 6.

Persons keeping such bawdy-house, &c., to be bound over to appear to answer the indictment.

VI. Provided always, and be it enacted by the authority aforesaid, that upon such constable or other officer entering into such recognizance to prosecute as aforesaid, the said justice of the peace shall forthwith make out his warrant to bring the person so accused of keeping a bawdy-house, gaming-house, or other disorderly house before him, and shall bind him or her over to appear at such general or quarter sessions or assizes, there to answer to such bill of indictment as shall be found against him or her for such offence; and such justice shall and may, if in his discretion he thinks fit, likewise demand and take security for such person's good behaviour in the meantime, and until such indictment shall be found, heard, and determined, or be returned by the grand jury not to be a true bill.

Constable neglecting his duty forfeits 20*l.*

VII. Provided also, that in case such constable shall neglect or refuse, upon such notice, to go before any justice of the peace, or to enter into such recognizance, or shall be wilfully negligent in carrying on the said prosecution, he shall for every such offence forfeit the sum of twenty pounds to each of such inhabitants so giving notice as aforesaid.

Who shall be deemed the keeper of such bawdy-house, &c.

VIII. And whereas, by reason of the many subtle and crafty contrivances of persons keeping bawdy-houses, gaming-houses, or other disorderly houses, it is difficult to prove who is the real owner and keeper thereof, by which means many notorious offenders have escaped punishment: Be it enacted by the authority aforesaid, that any person who shall at any time hereafter appear, act, or behave him or herself as master or mistress, or as the person having the care, government, or management of any bawdy-house, gaming-house, or other disorderly house, shall be deemed and taken to be the keeper thereof, and shall be liable to be prosecuted and punished as such, notwithstanding he or she shall not in fact be the real owner or keeper thereof.

[Sect. 9 repealed by S. L. R. Act, 1867.]

Indictment not removable by *certiorari* into any other court.

X. And . . . no indictment which shall at any time after the said first day of June be preferred against any person for keeping a bawdy-house, gaming-house, or other disorderly house, shall be removed by any writ of *certiorari* into any other court, but such indictment shall be heard, tried, and finally determined at the same general or quarter session or assizes where such indictment shall have been preferred (unless the court shall think proper, upon cause shown, to adjourn the same), any such writ or allowance thereof notwithstanding.

[Sects. 11, 12 repealed by S. L. R. Act, 1867.]

Recovery of forfeitures.

Sect. 10.

XIII. And . . . any person entitled to any of the forfeitures by this Act imposed may sue for the same by action of debt in

Note.

The "first day of June" here mentioned is June 1st, 1752.

Sect. 13.

any of His Majesty's Courts of Record at Westminster, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of being forfeited by an Act, intituled "An Act for the better preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing Persons keeping Disorderly Houses;" and the plaintiff, if he recover in any such action, shall have his full costs.

Full costs.

Limitation of actions.

XIV. Provided, that no action shall be brought by virtue of this Act unless the same shall be commenced within the space of six calendar months after the offence committed.

[Sect. 15 repealed by S. L. R. Act, 1867.]

JUSTICES ACT, 1753.

26 GEO. II., CHAP. 27.

An Act to confirm certain Acts and Orders made by Justices of the Peace being of the Quorum, notwithstanding any Defect in not expressing therein that such Justices of the Peace are of the Quorum.

Preamble.

WHEREAS authority is given by divers Acts of Parliament to two or more justices of the peace, whereof one or more are to be of the quorum: And whereas divers acts, orders, adjudications, warrants, confirmations of indentures, and other instruments done, made, and executed by two or more justices of the peace, without expressing that they are, or that one of them is, of the quorum, have been and may be for that reason only impeached, set aside, and vacated: Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the twenty-fourth day of June in the year one thousand seven hundred and fifty-three, no act, order, adjudication, warrant, indenture of apprenticeship, or other instrument, already made, done, or executed, or hereafter to be made, done, or executed, by two or more justices of the peace, which doth not express that one or more of the justices is or are of the quorum, shall be impeached, set aside, or vacated for that defect only, any law, statute, or usage to the contrary notwithstanding.

No act or order of two or more justices, to be vacated for defect only, in not expressing that one or more of such justices are of the quorum.

Note. By the Justices Quorum Act, 1766 (7 Geo. 3, c. 21), in cities, &c., having only one justice of the *quorum* qualified to act within the same, two or more justices, though not of the *quorum*, are empowered to carry into execution all acts to be done by virtue of any Act of Parliament.

OFFENDERS (CONVEYANCE) ACT, 1754.

27 GEO. II., CHAP. 3.

An Act for the better securing to Constables and others the Expenses of conveying Offenders to Gaol; and for allowing the Charges of Poor Persons bound to give Evidence against Felons.

Preamble, reciting Act 3 Jac. 1, c. 10.

WHEREAS by an Act passed in the third year of the reign of King James the First, intituled "An Act for the Rating and Levying of the Charges for conveying Malefactors and Offenders to the Gaol," every offender so to be conveyed shall bear the charges of himself and of those who convey him, and if he refuse so to do, his goods within the same county may be distrained and sold to satisfy the same; and if he hath no goods, the constable, churchwardens, and other inhabitants of the parish where he was taken shall make a tax on every inhabitant thereof to pay the said charges: And whereas the taxing the parish where such offender was taken to pay such charges is a great discouragement to parishes to take offenders, and it is also found by experience to be very difficult to make a rate on the inhabitants to raise such tax, whereby constables and others are often kept out of their money by them advanced for the service of the public, and sometimes lose the same, to their very great injury and vexation: For remedy whereof, be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the twenty-fourth day of June one thousand seven hundred and fifty-four, when any person not having goods or money within the county where he is taken sufficient to bear the charges of himself and of those who convey him, is committed to gaol or the house of correction by warrant from any justice or justices of the peace, then, on application by any constable or other officer who conveyed him, to any justice of the peace for the same county or place, shall upon oath examine into and ascertain the reasonable expenses to be allowed such constable or other officer, and shall forthwith, without fee or reward, by warrant under his hand and seal, order the treasurer of the county or place to pay the same, which the said treasurer is hereby required to do as soon as he receives such warrant, and any sum so paid shall be allowed in his accounts.

Offenders not having money or goods sufficient to defray the expenses of conveying them to gaol, &c.

Justices to grant a warrant on the treasurer of the county for payment of the charges of such conveyance.

[Sect. 2, *repealing so much of* 3 *Jac.* 1, *c.* 10, *as relates to taxing the parish, when offenders are taken, for defraying charges of conveying offenders to gaol:* Repealed by the S. L. R. Act, 1867.]

[Sect. 3, *charges of attendances to be allowed by the court to poor persons bound to give evidence against felons:* Repealed by 7 Geo. 4, c. 64, s. 32.]

Sect. 4.

In Middlesex the overseers of the poor of the parish where the offender was taken, to pay all such charges.

IV. Provided always . . . that nothing in this Act contained shall extend to empower . . . any justice or justices of the peace to make warrants or orders on the treasurer of the county of Middlesex for the payment of the expenses of the constable or other officer in conveying any person to gaol . . . but that within the said county of Middlesex the expenses of the constable or other officer occasioned by his conveying of any person to gaol, by virtue of a warrant from any justice or justices of the peace, shall (after such expenses have been examined into upon oath, and allowed by such justice or justices, and for which no fee or reward shall be taken) be paid by the overseer or overseers of the poor of the parish or place where the said person was apprehended, who is and are hereby authorized and required to pay the same, and the sum or sums so paid shall be allowed in his or their accounts.

[The words omitted from this section, referring to the power of the court to allow witnesses' expenses under sect. 3, *supra*, are now repealed.]

APPRENTICES (SETTLEMENT) ACT, 1757.

31 GEO. II., CHAP. 11.

An Act to amend an Act made in the Third Year of the Reign of King William and Queen Mary, intituled "An Act for the better Explanation and supplying the Defects of the former Laws for the Settlement of the Poor," so far as the same relates to Apprentices gaining a Settlement by Indenture. . . .

Preamble.

3 Wm. & M. c. 11.

WHEREAS by an Act made in the third year of the reign of King William and Queen Mary, intituled "An Act for the better Explanation and supplying the Defects of the former Laws for the Settlement of the Poor," it is enacted, that if any person shall be bound an apprentice by indenture, and inhabit in any town or parish, such binding and inhabitation shall be adjudged a good settlement: And whereas since the making the said Act, great numbers of persons have been unwarily bound apprentices by certain deeds, writings, or contracts not indented, by which binding many of them have suffered great loss and damage, on account of their having been refused a settlement in such town or parish where they have been so bound and resided forty days, and have been removed to the parish or place where their last legal settlement was before such apprenticeship, where they have had no encouragement to exercise their trades, or opportunity to gain a livelihood by their said trades to which they were so bound apprentices: For relief therefore of such apprentices, and for preventing the

Sect. 1.

like mischief for the future, be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that no person who shall have been bound an apprentice, or who shall hereafter be bound an apprentice, by any deed, writing, or contract not indented, being first legally stamped, shall be liable to be removed from the town, parish, or place where he or she shall have been so bound an apprentice, and resident forty days, by virtue of any order of removal granted by two justices of the peace of any county, riding, division, city, borough, town corporate, or place, or by virtue of any order of the justices at their general or quarter sessions, by reason or on account of such deed, writing, or contract not being indented only.

Person bound apprentice by deed, &c.; though not indented, being first duly stamped, is entitled to a settlement where apprenticed.

[Sect. 2, *proviso as to past Acts, &c.:* Repealed by the S. L. R. Act, 1867.]

[Sect. 3, *extension of provisions of* 20 *Geo.* 2, *c.* 19, *as to settlement of disputes between masters and servants to servants in husbandry though hired for less than a year:* Repealed by 38 & 39 Vict. c. 86, s. 17.]

JUSTICES QUORUM ACT, 1766.

7 GEO. III., CHAP. 21.

An Act to obviate Inconveniences which may arise with respect to the Execution of several Acts of Parliament in such Cities, Boroughs, Towns Corporate, Franchises, and Liberties as have only One Justice of the Peace of the Quorum qualified to act within the same.

WHEREAS authority is given by divers Acts of Parliament to two or more justices of the peace, whereof one or more are to be of the quorum: And whereas many inconveniences have arisen in such cities, boroughs, towns corporate, franchises, and

Preamble.

Sect. 1. Note.

Settlement by apprenticeship was established by sect. 7 of the Poor Relief Act, 1691 (3 Wm. & M. c. 11).

It was for a long time held that this statute did not dispense with the necessity of a deed, although the deed need not be indented (*Rex* v. *Ditchingham*, 4 T. R. 769; *Rex* v. *Margram*, 5 T. R. 153; *Rex* v. *All Saints, Hereford*, Burr. S. C. 656); but it has more recently been decided that the binding may be by writing properly stamped, and not necessarily by deed (*Woodstock Union* v. *Shipston-on-Stour*, 62 L. J. M. C. 43; 68 L. T. 449; 57 J. P. 167). A settlement cannot be obtained by inhabitation under a parol binding (*Rex* v. *Kingsweare*, Burr. S. C. 839; *Rex* v. *Stratton*, *ib.*, 272).

Sect. 1.

liberties as have only one justice of the peace of the quorum qualified to act within the same: Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this present Act, all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments which shall be made, done, or executed by virtue of any Act or Acts of Parliament, made or to be made, by two or more justices of the peace qualified to act within such cities, boroughs, towns corporate, franchises, and liberties, though neither of the said justices are of the quorum, shall be valid and effectual in law, to all intents and purposes, as if one of the said justices had been of the quorum, any law, statute, or usage to the contrary notwithstanding.

Two or more justices, though not of the quorum, empowered to carry certain Acts into execution.

POOR RELIEF ACT, 1769.

9 GEO. III., CHAP. 37.

An Act . . . for preventing Parish Poor being paid in Base or Counterfeit Coin.

[*The whole of this Act, except the part here printed, is repealed by the S. L. R. Act*, 1867.]

Churchwardens, overseers, or others, entrusted to make payments to or for the use of the poor, making the same in any other than lawful money,

VII. And . . . if any churchwarden or overseer of any parish, township, or place, or other person authorized or entrusted by them, or any of them, to make payments to or for the use of the poor within such parish, township, or place respectively, shall wilfully and knowingly, at any time from and after the twenty-fourth day of June next, make any such payments in any base or counterfeit money, or in any other than lawful money of Great Britain, that then, upon complaint thereof made to any justice of the peace of the county, riding, division, or place wherein such payment shall be so made as aforesaid, it shall and may be lawful to and for such justice, and he is hereby required to summon the churchwarden, overseer, or other person charged with such offence, and in a summary way upon his or their non-appearance or confession, or upon proof of such offence upon oath of one or more credible witness or witnesses (which oath the said justice is hereby

---

Sect. 1.

Note.

By the Justices Act, 1753 (26 Geo. 3, c. 27), no act or order of two or more justices is to be vacated for defect only in not expressing that one or more of such justices are of the quorum.

The provisions of this Act were extended by 4 Geo. 4, c. 27, to cities and other jurisdictions having two or any limited number of justices of the *quorum* qualified to act within the same, but that Act is now repealed by the S. L. R. Act (No. 2), 1890.

authorized to administer), to adjudge the party so offending to forfeit and pay for each offence a sum not less than ten shillings nor more than twenty shillings, and to levy the same by distress and sale of the goods and chattels of such offender, rendering the overplus, if any, to the owner, after the charges of such distress and sale shall be deducted; which sum shall be applied for the use of any poor person or persons of such parish, township, or place respectively, in such manner as the justice of peace who shall adjudge such forfeiture shall direct or appoint.

Sect. 1.

forfeit not less than 10*s.* nor more than 20*s.* for every such offence;

to be applied to the use of any of the poor of the parish.

LYING-IN HOSPITALS ACT, 1773.

13 GEO. III., CHAP. 82.

An Act for the better regulation of Lying-in Hospitals, and other places appropriated for the charitable Reception of pregnant Women; and also to provide for the settlement of Bastard Children born in such Hospitals and Places.

WHEREAS through the humane and benevolent assistance of well-disposed persons, many hospitals and places have been established for the charitable reception of pregnant women, which have afforded great relief in times of the utmost distress, and therefore merit every due support and encouragement; but some inconveniences having been found to arise from the number of bastard children born in such hospitals and places, which have become heavy burdens, and have occasioned unreasonable charges upon those parishes wherein such hospitals and places have been instituted, to their great and unjust oppression: And whereas it would tend as well to promote the interest of such hospitals and places as to give a seasonable relief to such parishes if a law was made to regulate the settlement of such bastard children: May it please your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same that from and after the first day of November, one thousand seven hundred and seventy-three, no hospital or place shall be established, used or appropriated, or continue to be used or appropriated, for the public reception of pregnant women under public or private support, regulation and management, in any parish within that part of Great Britain called England, unless a licence shall be first had and obtained, in manner hereafter mentioned, from the justices of the peace, at some one of their general quarter sessions to be held for the county, riding, division, city, or corporation wherein such hospital or place shall be situated, and such justices are hereby authorized and required to grant such licence to any person or

Preamble.

After November 1, 1773, no hospital to be established for the reception of pregnant women unless a licence be obtained;

Sect. 1.

which licence the justices, at their quarter sessions, are empowered to grant.

persons who shall apply for the same, such person or persons paying the sum of forty shillings for every such licence to the clerk of the peace of such county, riding, or division, or to the town clerk of such city or corporation, as a perquisite for his trouble, and as a fund to defray the expense of the stamp and parchment that shall be used for the grant of such licence.

Every licence to be stamped with a 5*s.* stamp, and signed by the justices.

II. And . . . every such licence shall be written on parchment, and stamped with a five shilling stamp, and a copy thereof shall be entered in a book to be kept for that purpose by such clerk of the peace or town clerk, and preserved as a public register amongst the records of the county, riding, or division of such city or corporation, as the case may be, to be inspected by any person or persons on payment of one shilling; and every such licence shall be signed by two or more such justices of the peace at their general quarter sessions, and shall entitle the person or persons to whom such licence shall be granted to keep one hospital, house or place, and no more, for the public or charitable reception of pregnant women.

Hospitals now or hereafter to be established for the reception of pregnant women deemed within the intent of this Act.

III. And . . . as well all hospitals, houses and places already established, used or appropriated for the public reception of pregnant women, and supported by charitable contributions, or otherwise, for the purposes of the delivery or lying-in of such pregnant women, as all other hospitals, houses or places that may hereafter be established, used and appropriated in like manner for the like purposes, shall be deemed and taken to be hospitals and places within the true intent and meaning of this Act.

Inscription to be affixed over the door of all hospitals.

IV. And that it may be the more easily known what hospitals, houses, or places shall have been licensed pursuant to this Act, be it enacted, that there shall be fixed and kept up over the door or public entrance of every such hospital, house or place an inscription, in large letters, in the following words: *videlicet*, LICENSED FOR THE PUBLIC RECEPTION OF PREGNANT WOMEN, PURSUANT TO AN ACT OF PARLIAMENT PASSED IN THE THIRTEENTH YEAR OF THE REIGN OF KING GEORGE THE THIRD; and the affixing and keeping such inscription shall be a condition in every such licence; and in case such inscription shall not be fixed and kept over the door or public entrance of

---

Sect. 3.

Note.

A room in a parish workhouse licensed pursuant to this Act, and appropriated to the reception of, and used for the purpose of delivery of pregnant women resident within the parish, whether settled there or elsewhere, and the expense of which room was defrayed in common with the general expenses of the workhouse out of the parish rates, was held not to be a hospital or place within sect. 3 of the Act, so as to protect the parish under sect. 5 from the liability of relieving bastard children born therein (*Rex* v. *Manchester*, 4 B. & Ald. 504).

such hospital, house or place, such licence shall become null and void. Sect. 5.

V. And . . . no bastard child or children born in any such hospital, house or place as aforesaid shall be legally settled in or shall be entitled to any relief as a parishioner from the parish wherein such hospital, house or place shall be situated, but every such child or children shall follow the mother's settlement, and shall immediately gain a settlement in the parish or parishes respectively where his, her, or their mother or mothers were last legally settled, any law, statute, usage, or custom to the contrary thereof in any wise notwithstanding. Bastard child born in hospital to gain a settlement in mother's parish.

VI. And . . . in case it shall become necessary to remove the mother of the child so born a bastard, and the child so born a bastard, or either of them, from the parish or place in which such hospital, house or place shall be situated to the parish or place to which such woman shall belong, or where she shall have obtained her last legal settlement, such parish or place, being within twenty miles of such hospital, house or place to which she shall be so removed, shall be chargeable with and liable to the payment of all charges and expenses incident to or attending such removals, such charges and expenses to be allowed and settled by any justice or justices of the peace (who is and are hereby required to allow and settle the same) in and for the county, riding, division, city, corporation or place in which the parish or place shall be situated to which such mother and child, or either of them, shall be removed as aforesaid ; and if such charges and expenses, after being allowed and settled as aforesaid, and demand thereof made in writing, directed to the churchwardens or overseers of the poor of the parish to which such mother and child, or either of them, shall be removed as aforesaid, shall not be paid within two days after such demand, then and in every such case it shall and may be lawful to and for any one or more of His Majesty's justices of the peace in and for the county, riding, division, city, corporation, or place in which the parish shall be situated to which such mother and child, or either of them, shall be On removal of mother or child, churchwardens of mother's parish, being within twenty miles, to pay expenses ; to be levied by distress.

Sect. 5. Note.

By the Poor Relief Act, 1814 (54 Geo. 3, c. 170), s. 2, no person is to be deemed to acquire a settlement in any parish, &c., by reason of such person being born of a woman confined in any house licensed under this Act in such parish, &c.

For the settlement of children born in workhouses, see sect. 3 of the Poor Relief Act, 1814, as modified by sect. 56 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101).

For the settlement of illegitmate children generally, see the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 71, and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 c. 61), s. 35.

Sect. 6.

removed, and he or they is and are hereby required, by warrant under his or their hand and seal or hands and seals, to levy the same by distress and sale of the goods and chattels of the churchwardens or overseers of the poor making such refusal as aforesaid, or on the goods and chattels of any or either of them.

Appeal may be made to quarter sessions by persons aggrieved,

giving fourteen days notice,

and entering into recognizance.

VII. Provided always, . . . that if any person or persons shall think himself or themselves aggrieved by such removal or distress had or made in pursuance of this Act, every such person may appeal to the quarter session of the peace to be holden for the county, riding, division, city, corporation or place wherein he shall have suffered such grievance, within four months after the fact done by which he shall think himself so aggrieved, such appellant first giving or causing to be given fourteen days' notice at the least in writing of the intention to bring such appeal, and of the matter thereof, to the party or parties against whom such appeal is intended to be brought, and within two days next after such notice given entering into recognizance with two sufficient sureties conditioned to try such appeal, and to abide the order of and to pay such costs as shall be awarded by the justices at such quarter sessions; and the said justices shall then hear and determine the causes and matters of appeal in a summary way, and award such costs to the parties appealing or appealed against as they the said justices shall think proper, and the determination of such justices so made shall be final, binding and conclusive, to all intents and purposes whatsoever.

[Sect. 8 repealed by the S. L. R. Act, 1871.]

Proviso.

IX. Provided always, that nothing in this Act contained shall extend or be construed to extend to alter the law as it now stands relative to the settlement of any bastard child so born as aforesaid, in cases where the mother's settlement cannot be ascertained and determined.

Sect. 6. Note.

By the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 3, no legitimate or illegitimate child residing with its parent may be removed unless the parent is removable.

In rural parishes the duties and liabilities of the churchwardens as overseers are transferred to the overseers by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5.

Sect. 7. Note.

As to procedure on appeals against removals, see the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31).

Sect. 9. Note.

If the settlement of the mother cannot be ascertained, the parish in which such child is born will be its place of settlement.

Sect. 10.

Owners or masters of hospitals to take the woman, before admitted, to be examined before a justice as to whether she is married or single.

X. And . . . the owner, keeper, governor, master, secretary, clerk or other person who shall have or to whom shall be entrusted the care, conduct, or management of such hospital, house or place shall, and he, she or they is and are hereby directed and required, before the admission of any pregnant woman into such hospital, house or place forthwith (unless prevented by sickness) to take or cause to be taken such woman before some justice of the peace in and for the county, riding, division, city, corporation or place where such hospital, house or place is situated, which justice is hereby directed and required to examine her upon oath whether she is married or single ; and in case such pregnant woman shall not be able at the time of such admission to go before such justice and be examined as aforesaid, . . . then and in every such case it shall and may be lawful to and for the said owner, keeper, governor, master, secretary, clerk or other person as aforesaid, and he, she, or they is and are hereby directed and required, when and so soon as such woman shall be sufficiently recovered, to take or cause to be taken such woman before such justice, to be by him examined as aforesaid, any law, statute, usage or custom to the contrary thereof in any wise notwithstanding : and all and every the particulars of such examination, taken upon oath as aforesaid, shall be entered in a book to be provided and kept for that purpose by the owner, keeper, governor, master, secretary, clerk, or other person as aforesaid, and signed by the justice of the peace before whom such examination is taken, who is hereby directed and required to sign the same.

If the woman produce an affidavit that she is married, or single.

she is not liable to go before the justice.

XI. Provided always, . . . that if any woman on admission into such hospital, house or place shall produce an affidavit, sworn by her before such justice of the peace for the city of London, or for the county, riding, division, city, corporation or place wherein such hospital, house or place shall be situated, that she is a married or single woman, as the case may be, which affidavit shall be kept and filed at every such hospital, house or place, then and in every such case such woman shall not be liable or compellable by this Act to go before any justice of the peace, or to be further examined on oath as to her marriage.

When any woman shall be delivered of a bastard, the owner of the hospital is to give four days' notice before she is discharged to the overseer, &c. ;

XII. And . . . if any woman shall be delivered of a bastard child in such hospital, house or place, such owner, keeper, governor, master, secretary, clerk or other person as aforesaid shall, four days at the least before any such woman shall be discharged, give or cause to be given a personal notice, or notice in writing, of such delivery, to be left at the usual place of abode of the overseer or overseers, churchwarden or churchwardens, of such parish or place wherein such hospital, house or place shall be situated ; and such overseer or overseers, churchwarden or churchwardens, or some or one of them,

Sect. 12.

who is to take her before a justice to be examined as to her last settlement.

is and are hereby authorized and required, after such notice given, to attend at such hospital or place within the time so notified as aforesaid, and shall convey every such woman before some justice of the peace of the county, riding, division, city, corporation or place where such birth or births shall happen, who shall examine every such woman upon oath relative to her last legal settlement, and shall certify in writing to such overseer or churchwarden the whole of such examination, who shall cause the same to be deposited and kept amongst the books and papers belonging to such parish or place.

Overseer, &c., attending, and being informed that such woman is not sufficiently recovered, shall wait till a further notice be given.

XIII. And . . . if at any time such overseer or churchwarden shall, upon such attendance, be informed by such owner, keeper, governor, master, secretary, clerk or other person that any such woman is not sufficiently recovered to be taken out and carried before such justice, such overseer or churchwarden shall wait till a further notice shall in like manner be given; and such notices from time to time shall be repeated, as occasion may require; and every such overseer and churchwarden who shall receive the same is hereby required to pay due attention thereto.

Every woman shall be kept in the hospital till she be in a fit condition to be discharged, &c.,

XIV. Provided always . . . that it shall and may be lawful for every such owner, keeper, governor, master, secretary, clerk or other person to keep and detain in such hospital, house or place every such woman so delivered of a bastard child till she shall be adjudged in a fit condition to be discharged, and until she shall have been examined before some justice of the peace as aforesaid with respect to the place of her last legal settlement.

but not to extend to keep any woman longer than six weeks, without her consent.

XV. Provided always . . . that nothing in this Act shall extend or be construed to extend to authorize or empower any person whatsoever to keep or detain in such hospital, house or place any woman so delivered of a bastard child for a longer time than six weeks after the birth of such child, unless it shall be done by own free consent.

Owner, governor, &c., not complying with the directions of of this Act to forfeit 50*l.*;

and overseer, &c., neglecting or refusing to forfeit 10*l.*

XVI. And . . . every such owner, keeper, governor, master, secretary, clerk, or other person as aforesaid who shall wilfully neglect or refuse to comply with the directions of this Act shall forfeit and pay for every such neglect or refusal the sum of fifty pounds; and every such overseer or churchwarden who shall in like manner neglect or refuse to comply with the directions of this Act shall for every such neglect or refusal forfeit and pay the sum of ten pounds, which penalties or forfeitures shall be recovered, with full costs of suit, by action of debt, bill, plaint, or information in any of His Majesty's Courts of Record at Westminster, by any person or persons who shall sue for the same; and such forfeitures and penalties

Sect. 16.

How penalties may be recovered and applied.

when recovered shall be applied, one moiety to the use of the poor of the parish where such offence shall have been committed, and the other moiety to the person or persons who shall sue for and recover the same.

[Sect. 17, *as to pleading the general issue, and awarding treble costs to defendants;* sect. 18, *as to limitation of actions:* repealed by the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61).]

[Sect. 19, *Act to be deemed a public Act:* repealed by the S. L. R. Act, 1887.]

PARISH APPRENTICES ACT, 1778.

18 GEO. III., CHAP. 47.

An Act to amend such part of an Act made in the Forty-third Year of the Reign of Queen Elizabeth, intituled "An Act for the Relief of the Poor," as relates to the binding of Parish Apprentices.

Preamble.

Act 43 Eliz. c. 2, recited.

WHEREAS in and by an Act made in the forty-third year of the reign of Queen Elizabeth (intituled An Act for the Relief of the Poor) it was enacted, that it should be lawful for the churchwardens and overseers therein mentioned, or the greater part of them, by the assent of any two justices of the peace, to bind the children of all such parents who shall not by the said churchwardens and overseers or the greater part of them be thought able to keep and maintain their children, to be apprentices, where they shall see convenient, till such man-child shall come to the age of four-and-twenty years, and such woman-child to the age of one-and-twenty years, or day of marriage: And whereas it has been found by experience that the said term respecting men-children is longer than is necessary, and that if such man-child was bound to be an apprentice only till he came to the age of one-and-twenty years all the benefits intended by the said Act would be preserved, the hardships brought on such parish apprentices by the length of their apprenticeship would be avoided, and the good harmony between master and apprentice would be better maintained: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, when any man-child shall be bound to be an apprentice by virtue of and under the authority of the said

No man-child apprenticed by virtue of the recited

Sect. 1.

Act to continue an apprentice after the age of twenty-one.

Act made in the forty-third year of Queen Elizabeth, such child shall be bound to be an apprentice for no longer term than till such child shall come to the age of twenty-one years.

WORKHOUSES ACT, 1790.

30 GEO. III., CHAP. 49.

An Act to empower Justices and other Persons to visit Parish Workhouses or Poorhouses, and examine and certify the State and Condition of the Poor therein to the Quarter Sessions.

Preamble.

WHEREAS the laws now in being for the regulating parish workhouses or poorhouses have been found in certain instances deficient and ineffectual, especially when the poor in such houses are afflicted with contagious or infectious diseases, in which cases particular attention to their lodging, diet, clothing, bedding and medicines is requisite: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the twenty-ninth day of September, one thousand seven hundred and ninety, it shall and may be lawful to and for any of His Majesty's justices of the peace, or any physician, surgeon or apothecary for that purpose

From September 29, 1790, justices, &c., may visit

Sect. 1.

Note.

Parish apprentices being now, by virtue of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 12, bound by guardians instead of overseers, regulations were made by the Gen. Cons. Ord. of July 24th, 1847, which govern the age of apprentices and length of binding. By art. 52 no child under the age of nine years, or who cannot read and write his name, is to be bound; by art. 57 no child over fourteen years is to be bound without his own consent; and no child under fourteen years without the consent of his parent; and by art. 56 no apprentice shall be bound by guardians for more than eight years.

Formerly the binding was required by 5 Eliz. c. 4, s. 26, to be for seven years. That statute was, however, repealed by 38 & 39 Vict. c. 86, s. 17, and no particular time is now necessary. But even whilst that statute was in force, a binding for less than seven years was holden to be voidable only, not void (*Rex* v. *St. Nicholas, Ipswich*, 2 Str. 1066; *Gray* v. *Cookson*, 16 East, 13). So, where by a local Act, the guardians of the poor of Canterbury were empowered to bind poor children apprentices for any number of years they should think fit, provided that they should not be bound for a longer term than they should attain the age of twenty-one, if boys, or twenty, if girls; and a boy was apprenticed for a term which would not expire until after he should have attained the age of twenty-one: the court held that the indenture was voidable only, not void, on that account (*Rex* v. *St. Gregory*, 2 A. & E. 99).

Sect. 1.

workhouses, and certify the state of the poor to the next quarter sessions, &c.

authorized by warrant under the hand and seal of any such justice or justices, or for the officiating clergyman of the parish or place duly authorized as aforesaid, at all times in the day time to visit any parish workhouse or house kept or provided for the maintenance of the poor of any parish or place within the county, riding, liberty or division wherein such justice or justices shall be resident and shall have jurisdiction, to examine into the state and condition of the poor people therein, and the food, clothing and bedding of such poor people, and the state and condition of such house or houses; and if upon any such visitation the said justice or justices or persons duly authorized as aforesaid shall find any cause or occasion of complaint, that then and in such case such justice or justices or persons duly authorized as aforesaid shall and they are hereby authorized and empowered, if he or they shall think fit, to certify the state and condition of such workhouse or poorhouse, and the state of the poor therein, and of their food, clothing and bedding, to the next quarter sessions of the peace to be held for such county, riding, liberty or division wherein such workhouse or poorhouse shall be situate, under his or their hands and seals respectively; and such justice or justices or other persons duly authorized as aforesaid shall cause the overseers of the poor, or master or governor of the said workhouse or poorhouse of such parish or place, to be summoned to appear at the same sessions to answer such complaint; and the justices assembled at such quarter sessions on hearing the parties on any such complaint shall and may and they are hereby authorized to make such orders and regulations for the removing of any cause of complaint contained in such certificate as aforesaid as to them shall seem meet, and all the parties concerned shall and they are hereby required to abide by and perform such orders and regulations as shall be so made by the justices at the said sessions.

Justices at the quarter sessions to remove causes of complaint.

Sect. 1.

Note.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 43, justices are also authorized to visit workhouses to see if the rules, &c., of the Local Government Board are duly observed, and to summon offending parties.

The Gen. Cons. Ord., July 24th, 1847, art. 128, provides for the appointment of visiting committees by boards of guardians to examine and inspect workhouses; and by the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 24, in cases where boards of guardians neglect to appoint a visiting committee, or where the visiting committee neglects for three months to visit the workhouse, the Local Government Board may appoint a paid visitor.

By the Poor Relief Act, 1849 (12 & 13 Vict. c. 13), s. 8, justices are empowered to visit and inspect houses and establishments not being workhouses in which poor persons are lodged and maintained under contracts with the guardians, in the same manner as though such houses were workhouses; and by sect. 7 the Local Government Board may appoint an inspector, to be paid by the guardians, who shall visit and inspect such houses and establishments and report thereon to the Board.

Sect. 2.

If in such visitation any of the poor should be found afflicted with contagious diseases, &c., application to be made to the justices of the division, who are to give order for immediate relief, &c.

II. Provided always, and be it further enacted by the authority aforesaid, that in case any justice or justices of the peace or persons duly authorized by warrant as aforesaid shall upon any such visitation find any of the poor in any parish workhouse or poorhouse afflicted with any contagious or infectious disease, or in want of immediate medical or other assistance or of sufficient and proper food, or requiring separation or removal from the other poor in the said house, then and in such case or cases, if such visitation shall be made by a justice of the peace, it shall and may be lawful to and for such justice and he is hereby directed and required to apply to one or more other justice or justices of the peace in the county, riding, liberty or division, and certify to him or them the state and condition of the poor in such parish workhouse or poorhouse, or if such visitation shall be made by the persons duly authorized as aforesaid, then and in such case or cases it shall and may be lawful to and for such persons and they are hereby directed and required to apply to two or more justices of the peace in such county, riding, liberty or division, and thereupon the said justices shall and may and they are hereby authorized to make such order for the immediate procuring medical or other assistance, or of sufficient and proper food, or for the separation or removal of such poor as shall be afflicted with any contagious or infectious disease, in such manner as they the said justices under their hands and seals shall think proper to direct, until the next quarter sessions of the peace to be held in and for the said county, riding, liberty or division wherein such workhouse or poorhouse shall be situate, at which quarter sessions of the peace the said two justices are to certify the same, under their hands and seals respectively, to the justices assembled at such quarter sessions, who are hereby authorized and required to make such order for the further relief of the poor in such parish workhouse or poorhouse as to the justices assembled at such quarter sessions shall seem meet and proper; and the charges and expenses of relieving such poor shall be and is hereby directed to be paid out of the poor's rate of such parish in such manner as the said justices assembled at such quarter sessions shall direct.

Expenses of relief to be paid out of the poor's rate.

Not to extend to workhouses in districts regulated by Act of Parliament.

III. Provided always, that nothing herein contained shall extend or be construed to extend to any poorhouse or workhouse in any district or districts which have been or may be hereafter incorporated or regulated by any special Act or Acts of Parliament.

PARISH APPRENTICES ACT, 1792.

32 GEO. III., CHAP. 57.

An Act for the further Regulation of Parish Apprentices.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 12, the powers of overseers as to binding out poor children are transferred to the guardians, and the jurisdiction of justices in allowing, assenting to, or executing the indentures of apprenticeship is abolished.]

Preamble.

WHEREAS by an Act passed in the forty-third year of the reign of Queen Elizabeth, intituled "An Act for the Relief of the Poor," it is (amongst other things) enacted, that it shall be lawful for the churchwardens and overseers of the poor of any parish or the greater part of them, by the assent of two justices of the peace, to bind any children, whose parents they shall judge to be not able to keep and maintain such children, to be apprentices where they shall see convenient, till such man-child should come to the age of twenty-four years and such woman-child to the age of twenty-one years or the time of her marriage, the same to be as effectual to all purposes as if such child were of full age and by indenture of covenant bound him or herself: And whereas by an Act made in the eighth and ninth years of the reign of King William, intituled "An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom," after reciting that, there being doubts whether the persons to whom such children were to be bound under and by virtue of the said statute of the forty-third year of the reign of Queen Elizabeth were compellable to receive such children as apprentices, that law had failed of its execution, it was therefore enacted, that where any poor children should be appointed to be bound apprentices pursuant to the said Act of Queen Elizabeth, the persons to whom they are so appointed to be bound apprentices shall receive and provide for them according to the indenture signed and confirmed by the two justices of the peace, and also execute the other part of the said indentures, under the penalty in case of refusal of the forfeiture of ten pounds for every such offence, to be levied of the goods of the offender in the manner mentioned in the said Act: And whereas by an Act passed in the eighteenth year of the reign of His present Majesty, intituled "An Act to amend such part of an Act made in the forty-third year of the reign of Queen Elizabeth, intituled 'An Act for the Relief of the Poor,' as relates to the binding of parish apprentices," it was enacted, that when any man-child should be bound to be an apprentice by virtue of the said Act made in the forty-third year of the reign of Queen Elizabeth, such child shall be bound to be an apprentice for no longer term than till he shall come to the age of twenty-one years: And whereas in such indentures of apprenticeship it

43 Eliz. c. 2.

8 & 9 Will. 3, c. 30, and

18 Geo. 3, c. 47, recited.

Sect. 1.

hath been usual to insert several agreements and covenants to be done and performed by the several parties thereto; (that is to say,) an agreement on the part of the apprentice that he will faithfully serve his master during the term of such apprenticeship, and also several covenants on the part of the master, for himself, his executors and administrators, that he the said master will teach or cause to be taught such apprentice in the business of husbandry, or in the craft, mystery or occupation which such master then useth, as the case may be, and that such master shall also during the term of such apprenticeship find and allow unto such apprentice sufficient meat, drink, apparel, lodging and all other things needful for an apprentice during such term: And whereas in the event of the death of the master during the term of such apprenticeship the agreement for service on the part of the apprentice is at an end, but the covenant for maintenance on the part of the master still continues in force as far as the master's assets will extend, or doubts have arisen with respect thereto, and in consequence thereof such apprentices do frequently on the death of their master leave their master's house, and after living in idleness return again and become a burden on their master's effects, and so from time to time, as they think proper, which is attended with great inconvenience and hardship to the family and personal representatives of such master, and is at the same time an inducement to such apprentice to continue in a disorderly and idle course of life; And whereas the several powers given to justices of the peace for the better ordering of parish apprentices by the several Acts of Parliament made for that purpose do cease and determine on the death of the master, for which a remedy ought to be provided: And whereas several other regulations are necessary to be made respecting parish apprentices: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the first day of July one thousand seven hundred and ninety-two, in case of the death of any master or mistress of any parish apprentice during the term of such apprenticeship, upon the binding out of which apprentice no larger sum than five pounds has been or shall be paid, such covenant as is before mentioned for the maintenance of such apprentice, inserted in the indenture of apprenticeship by which such apprentice shall have been or shall be bound, shall not continue and be in force for and during any longer time than for three calendar months next after the death of such master or mistress, and that during such three calendar months such apprentice shall continue to live with and serve as

From July 1, 1792, covenants for maintenance of parish apprentices, with whom no more than 5*l.* shall be given, to continue in force no longer than three

---

Sect. 1. Note.

By the Parish Apprentices Act, 1842 (5 & 6 Vict. c. 7), this section and all other provisions of this Act are declared to extend to apprentices when no sum or premium of apprenticeship shall be paid on the binding of such apprentice.

Sect. 1.

an apprentice the executors and administrators of such master or mistress, some or one of them, or such person or persons as such executors or administrators, some or one of them, shall appoint; and the master or mistress whom such apprentice shall accordingly serve during the said three calendar months, and also such apprentice, shall during that time be subject and liable to all the laws which are or shall be in force for the better government and regulation of masters and parish apprentices: And that in all such parish indentures of apprenticeship as aforesaid which shall be made from and after the first day of July one thousand seven hundred and ninety-two there shall be annexed to the covenant in such indentures to be entered into on the part of the master or mistress of such apprentice for such maintenance as aforesaid a proviso declaring that such covenant shall not be made to continue and be in force for any longer time than for three calendar months next after the death of such master or mistress, in case such master or mistress shall die during the term of such apprenticeship, which proviso may be in the form or to the effect mentioned in the schedule hereunto annexed marked with the letter A.; and in case such proviso shall happen to be omitted in any such indenture the covenant therein contained on the part of the master for the maintenance of the apprentice shall be deemed and taken to continue and be in force for no longer time than for three calendar months next after the death of such master or mistress, in case such master or mistress shall die during the term of such apprenticeship, any thing in any such covenant to the contrary notwithstanding.

months after the death of the master, &c.

Proviso to that effect to be annexed to covenant, but if omitted the covenant to continue no longer in force.

II. And whereas it is just and reasonable that such apprentice as aforesaid, in case of his master's death during his apprenticeship, should be obliged during the term of his apprenticeship to make some satisfaction by his labour to the family or representatives of his deceased master for the advantages he has received from his apprenticeship in his childhood, when his services could not be equal to the expenses of his maintenance: Be it enacted, that within such three calendar months after the death of such master or mistress it shall and may be lawful for any two justices of the peace of the county, city, town, riding, division or place where such master or mistress shall have died, on application made to them by the widow of such master or by the husband of such mistress, or by any son or daughter, brother or sister, or by any executor or executrix, administrator or administratrix, of such master or mistress, by indorsement on any such indenture of apprenticeship or the counterpart thereof, or by any other instrument in writing (which indorsement or instrument may be in the forms or to the effect mentioned in the schedule hereunto annexed marked with the letters B. and C.), to order and direct that such apprentice shall serve as an apprentice any one of such persons so making such application as aforesaid (such person having lived with and having been part of the family of such master of mistress at the time of his or her death) as the said

Within three months after the death of a master, two justices may order apprentices to serve the residue of their terms with persons of the description herein specified, on application, &c.

Sect. 2.

justices shall in their discretion think fit, for and during the residue of the term mentioned in such indenture of apprenticeship, and the person obtaining such order shall declare his acceptance of such apprentice by subscribing his or her name to such order; and that from and after such order shall be made, the executors and administrators, and the personal assets, estate and effects of the master or mistress so dying as aforesaid, shall be released and discharged of and from any promise or covenant whatsoever contained in any such indenture of apprenticeship, on the part of such master or mistress, his or her executors or administrators, to be done and performed, and the person obtaining the same shall be and be deemed and taken to be the master or mistress of such apprentice in like manner as if such apprentice had been originally bound to such master or mistress; and that such last-mentioned master or mistress, his or her executors and administrators, each and every of them, shall be held and bound by the several promises and covenants contained in any such indenture of apprenticeship on the part of the master or mistress therein named, his or her executors or administrators, to be done and performed, in like manner as if such master or mistress obtaining such order as aforesaid had duly executed the counterpart of such indenture; and that such master or mistress and apprentice shall be subject and liable to the several penalties, provisions and regulations which shall then be in force for the better government and good order of masters and parish apprentices; and that all justices of the peace shall have the like powers and authority with respect thereto as they shall then have by any Act or Acts of Parliament relating to parish apprentices.

Provisions in case of the death of the original master to be applicable on the death of subsequent ones.

III. And . . . all and singular the regulations and provisions herein-before made and directed to take place on the death of the original master or mistress shall be deemed and taken to relate to the like event of the death of any such subsequent master or mistress, and to their several relations and representatives before enumerated, from time to time, as often as the case shall happen, during the continuance of the term mentioned in any such indenture of apprenticeship.

If no application be made, or the justices should not think fit that the apprenticeship should be continued, it shall be at an end.

IV. And . . . in case no such application shall be made as aforesaid within three calendar months next after the death of such master or mistress, or in case such two justices to whom any such application as aforesaid shall have been made shall not think fit that such apprenticeship should be continued, then the said apprenticeship shall be determined, and the indenture of apprenticeship and covenants therein contained shall be at an end in like manner as they would have been at the expiration of the term therein mentioned.

Sect. 4.

Note.

A woman having a parish apprentice who served her four or five years upon her farm, gave up her farm and went to live with her son in another parish, and the son agreed to take the apprentice

Sect. 5.

Act to extend to such parish apprentices only as shall be living with the master.

V. Provided always, . . . that nothing herein-before contained shall extend or be construed to extend to any parish apprentice but to such only as shall be living with and shall make part of the family, or shall be in the actual employment of such original master or mistress, or of any subsequent master or mistress appointed under and by virtue of the several provisions of this Act, at the time of the death of any such masters or mistresses respectively.

Justices may order the necessary sums for maintenance and clothing of apprentices to be levied by distress.

VI. And whereas much difficulty and delay must necessarily happen in bringing an action upon the covenant for maintenance before mentioned contained in any such indenture of parish apprenticeship: Be it enacted, that in case any such original master or mistress as aforesaid, or any master or mistress appointed under or by virtue of this Act, shall during the term of any such parish apprenticeship as aforesaid, or if the executors or administrators of such masters or mistresses, any or either of them, having assets, shall during such three calendar months as aforesaid refuse or neglect to maintain and provide for any such apprentice according to the terms of such covenant, it shall and may be lawful for any two justices of the peace of the county, city, town, riding, division or place in which the parish or place shall lie to which such apprentice shall belong, on complaint of such apprentice or of the churchwardens and overseers of the poor of such parish or place, by warrant under their hands and seals to levy by distress and sale of the personal estate and effects or assets of such master or mistress respectively such sum or sums of money as shall be necessary for the maintenance and clothing of such apprentice, and as shall also be necessary to reimburse to the churchwardens and overseers of the poor of such parish or place any sum or sums of money that shall have been reasonably expended by them for that purpose.

Sect. 4.

Note.

into his service and keep him; some time afterwards the mother died, and the apprentice, after serving the son some time longer, was told by the latter to look out for another place; he accordingly, with the special consent of the son, hired with a person in the parish of Field for fifty-one weeks, and served and resided there more than forty days. The court held that were it not for the above statute, 32 Geo. 3, c. 57, they should have holden that the apprentice had gained a settlement in Field, under the indenture; but as the son, after his mother's death, had not obtained the justices' order prescribed by that statute the indenture was at an end, and his consent to his service inoperative (*Rex* v. *Sheepshead*, 15 East, 59).

Sect. 6.

Note.

By the Offences against the Person Act, 1861 (24 & 25 Vict. c. 100), s. 26, it is a misdemeanour punishable with penal servitude, to refuse or neglect without lawful excuse to provide an apprentice or servant with necessary food, clothing, or lodging; and by sect. 73 of the same Act the guardians may institute and conduct the prosecution of persons charged with such refusal or neglect.

Sect. 7.

VII. And whereas it frequently happens that persons are compellable, under and by virtue of the said Act of the ninth and tenth years of King William,* to take a greater number of parish apprentices than it is convenient for them to maintain or employ in their own families, and they are therefore forced to place out or assign over such apprentices to other persons, and it is proper that such assignment should be legally made under the inspection and control of the magistrates, as well for the benefit of the apprentice as that the original master may be discharged from his covenants in respect of such apprentice; and it is fit that the person to whom such assignment shall be made, and also the apprentice, should be made subject to the ordinary jurisdiction of justices of the peace with respect to masters and parish apprentices: Be it enacted, that it shall and may be lawful for any master or mistress of any such parish apprentice as aforesaid, by indorsement on the indenture of apprenticeship, or by other instrument in writing, by and with the consent of two justices of the peace of the county, city, town, riding, division or place where such master or mistress shall dwell, testified by such justices under their hands, to assign such apprentice to any person who is willing to take such apprentice for the residue of the term mentioned in such indenture of apprenticeship: Provided always, that such person to whom such apprentice is intended to be assigned shall at the same time, by indorsement on the counterpart of such indenture, or by writing under his or her hand, stating the said indenture of apprenticeship and the indorsement and consent aforesaid, declare his or her acceptance of such apprentice and acknowledge himself, herself, his or her executors and administrators, to be bound by the agreements and covenants mentioned in the said indenture on the part of the master or mistress of such apprentice to be done and performed, which indorsement or instrument may be in the forms or to the effect mentioned in the schedule hereunto annexed marked with the letters D. and E.; and in such case such apprentice shall be deemed and taken to be the apprentice of such subsequent master or mistress to whom such assignment shall be made to all intents and purposes whatsoever; and so from time to time as often as it shall be necessary or convenient for any such subsequent master or mistress to part with any such apprentice; and all justices of the peace shall have the like power and authority in the several cases last mentioned with respect as well to the subsequent master or mistress, masters or mistresses, as to the apprentice, as such justices shall then have by any law for the better regulation of parish apprentices.

Master may assign over apprentice with the consent of two justices, &c.

Assignee to testify his acceptance of such apprentice.

Justices may discharge apprentices

VIII. And whereas no express provision has been made for the discharging of any such parish apprentice from a master or

* "The said Act of the ninth and tenth years of King William" is the 8 & 9 Will. 3, c. 30, s. 5.

mistress who is become insolvent or is so far reduced in his or her circumstances as to be unable to employ or maintain such apprentice: Be it enacted, that it shall and may be lawful for two justices of the peace of the county, city, town, riding, division or place where any such master or mistress shall live, on the application of such master or mistress requesting that any such apprentice may be discharged for the reasons aforesaid, to inquire into the matter of such allegations, and to discharge any such apprentice from his apprenticeship in case the said two justices shall find such allegations to be true.

Sect. 8.

whose masters cannot employ or maintain them.

IX. Provided always, . . . that nothing herein-before contained shall extend or be construed to extend to the indenture made on the binding of any apprentice by the churchwardens or overseers of the poor of any parish or place, or the major part of them, under and by virtue of the powers given to them by the statute made in the forty-third year of the reign of Queen Elizabeth, in the case of any such binding where a larger sum than five pounds shall be given, but that such binding shall be

Preceding provisions not to extend to apprentices with whom more than 5*l.* shall be given.

Sect. 8.

Note.

As to the bankruptcy of the master, it was formerly no dissolution of the contract of apprenticeship; and therefore where, upon the master becoming bankrupt, the apprentice hired himself to a person in another parish for a year, without his master's assent, and served: the court held that he gained no settlement by it (*Rex* v. *Puckington*, 2 Ld. Raym. 1352; 1 Str. 582). But where the master, upon becoming bankrupt, specially consented to his apprentice serving a person in another parish, and the apprentice served and resided there accordingly: the court held that he gained a settlement in such other parish by his inhabitation during such latter service (*Rex* v. *Langham*, Cald. 126). Now, however, by the Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 41, if the master become bankrupt, the adjudication against him, if the bankrupt or apprentice give notice in writing to the trustee to that effect, operates as a complete discharge of the indenture of apprenticeship; but the trustee may, if he deem it expedient upon application by or on behalf of the apprentice, transfer the instrument of apprenticeship to some other person.

By the Gen. Cons. Ord., July 24th, 1847, art. 73, applicable to indentures of apprenticeship made by guardians of the poor:—

"The indenture shall be made subject to the following provisoes:

"No. 1. That if the master take the benefit of any Act for the relief of insolvent debtors, or be discharged under any such Act, such indenture shall forthwith become of no further force or effect.

"No. 2. That if, on a conviction for a breach of any one of the aforesaid covenants and conditions before a justice of the peace, the guardians who may be parties to the said indenture declare by a resolution that the indenture is determined, and transmit a copy of such resolution, under the hand of their clerk, by the post or otherwise, to the said master, such indenture shall, except in respect of all rights and liabilities then accrued, forthwith become of no further force and effect."

Sect. 9.

subject and liable to the like rules and regulations as they would have been subject and liable to in case this Act had not been made.

[Sect. 10, repealed by the S. L. R. Act, 1871; sects. 11—13, *as to proceedings by and before justices, appeals and penalties*, repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4.]

Parties aggrieved may appeal to the quarter sessions.

XIV. And . . . if any person shall be aggrieved by any matter or thing done or omitted to be done by any churchwarden or overseer of the poor or by any of His Majesty's justices of the peace or by any other person or persons whomsoever under and by virtue of this Act, besides such matters or things for which an appeal is herein-before specially given, it shall and may be lawful for such person or persons to appeal to the next general quarter sessions of the peace, where the same shall be heard and finally determined, and such court may award reasonable costs and expenses to either party before them.

SCHEDULE REFERRED TO IN THIS ACT.

[The forms in this Schedule, although unrepealed, are now to a great extent rendered inapplicable by the provisions of 7 & 8 Vict. c. 101, s. 12, and arts. 52—74 of the Gen. Cons. Ord., July 24th, 1847.]

A. Form of Proviso to be added to the Covenant for Maintenance.

Provided always, that the said last-mentioned covenant on the part of the said F. M. [the master], his executors and administrators, to be done and performed shall continue and be in force for no longer time than three calendar months next after the death of the said F. M., in case he the said F. M. shall happen to die during the continuance of such apprenticeship, according to the provisions of an Act passed in the thirty-second year of the reign of King George the Third, intituled [here set forth the title of the Act].

B. Form of the order of two justices directing a parish apprentice to continue with the widow [or, as the case may be,] of his deceased master, by indorsement on the indenture or counterpart thereof, on which binding no more was paid than the sum for that purpose mentioned in this Act.

County of } WHEREAS F. M. [the master] within named, late of the parish of in the said county, died on the day of , being within three calendar months now last past, we, two of His Majesty's justices of the peace for the county aforesaid, whose names are hereunto subscribed, on the application and at the

request of A. M., widow [or, as the case may be] of the said F. M., living with and being part of the family of the said F. M. at the time of his death, do hereby order and direct that A. P., the apprentice within named, who was in the service and actual employment of the said F. M. at the time of his death, shall serve the said A. M. as such apprentice for the residue of the term of such apprenticeship within mentioned, according to the provisions of an Act passed in the thirty-second year of the reign of King George the Third, intituled "An Act for the further Regulation of Parish Apprentices." Witness our hands this day of

I, the above-named A. M., do hereby declare that the above order is made at my request, and that I do accept the said A. P. as my apprentice according to the terms and covenants contained in the said indenture and according to the provisions of the said Act. Witness my hand the day and year above written.

C. Form of the like order by a separate instrument.

County of } WHEREAS it appears unto us, two of His } Majesty's justices of the peace for the said county, that A. P. [the apprentice] was bound an apprentice by the churchwardens and overseers of the poor of the parish of to F. M. [the master], late of the said parish , and that the said F. M. died on day of , being within three calendar months now last past: Now we, the said two justices, on the application and at the request, &c. [then to the end as before, *mutatis mutandis*].

D. Form of the assignment of such a parish apprentice with the consent of two justices by indorsement on the indenture or counterpart.

County of } BE it remembered that the within-named F. M. } [the master], by and with the consent and approbation of I. P. and K. P., two of His Majesty's justices of the peace for the said county, whose names are subscribed to the consent hereunder written, doth hereby assign A. P., the apprentice within named, unto N. M. [the new master], to serve him during the residue of the term within mentioned, and that he the said N. M. doth hereby agree to accept and take the said A. P. as an apprentice for the residue of the said term, and doth hereby acknowledge himself, his executors and administrators, to be bound by the agreements and covenants within mentioned on the part of the said F. M. to be done and performed, according to the true intent and meaning thereof, and pursuant to the provisions of an Act passed in the thirty-second year of the reign of King George the Third, intituled

Schedule.

"An Act for the further Regulation of Parish Apprentices." In witness whereof we the said F. M. and N. M. have hereunto set our hands this day of

We, two of His Majesty's justices of the peace above-mentioned, do consent thereto. Witness our hands this day of

I. P.
K. P.

E. Form of the like assignment by a separate instrument.

County of } WHEREAS it appears unto us, I. P. and K. P., } two of His Majesty's justices of the peace for the said county, whose names are subscribed to the consent hereunder written, that A. P. was bound an apprentice by the churchwardens and overseers of the poor of the parish of to F. M. of the same parish , by indenture bearing date on or about the day of , until the said A. P. should attain his age of twenty-one years: Now be it remembered that the said F. M. by and with the consent, &c. [and so to the end as before, *mutatis mutandis*].

PARISH OFFICERS ACT, 1793.

33 GEO. III., CHAP. 55.

An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers and other Peace or Parish Officers for Neglect of Duty, and on Masters of Apprentices for Ill Usage of such their Apprentices; and also to make Provision for the Execution of Warrants of Distress granted by Magistrates. [21st June, 1793.]

[*Whole Act, except so much of sects.* 1, 2 *as relates to constables, overseers, and other peace or parish officers, repealed by* 38 & 39 *Vict. c.* 86, *s.* 17; *sect.* 2 *repealed by S. J. Act,* 1884.]

Preamble.

WHEREAS it is expedient to give further powers to justices of the peace to impose fines upon overseers of the poor, constables and other peace and parish officers within their respective

---

Sect. 1.

Note.

The portions of this section which are omitted related to procedure before the justices, and are repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4).

By the Vagrancy Act, 1824 (5 Geo. 3, c. 83), s. 12, if any fine or penalty is imposed under the powers of this Act upon constables or other peace officers for neglect of duty under that Act, the costs of the person on whose complaint or information the offender was convicted may be allowed and paid by the justices.

Masters and mistresses of apprentices or servants may be prosecuted by the guardians for illtreating such apprentices or servants, and the costs of the prosecution may be allowed out of the common fund under the Offences against the Person Act, 1861 (24 & 25 Vict. c. 100), ss. 26, 73.

Sect. 1.

jurisdictions, for neglect of duty in such their respective offices, or for disobedience of the warrants or orders of such justices; and it is also expedient to empower justices to impose fines upon masters of apprentices for ill usage of such their apprentices, and also to make provision for the execution of warrants of distress granted by magistrates: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that it shall and may be lawful for any two or more of His Majesty's justices of the peace assembled at any special or petty sessions of the peace, upon complaint being made upon oath before them of any neglect of duty, or of any disobedience of any lawful warrant or order of any justice or justices of the peace, by any constable, overseer of the poor or other peace or parish officer, or upon complaint made to such two or more justices upon oath by or on the behalf of any apprentice to any trade or business whatsoever, whether bound apprentice by any parish or township or otherwise, provided that not more than the sum of ten pounds be paid upon the binding of such apprentice, against his or her master or mistress, of any ill usage of such apprentice by such master or mistress (such constable, overseer or other officer, master or mistress, having been duly summoned to appear and answer such charge or complaint), to impose, upon conviction, any reasonable fine or fines, not exceeding the sum of forty shillings, upon such constable, overseer or other officer, master or mistress respectively, as a punishment for such disobedience, neglect of duty or ill usage . . . ; and such fine or fines which may be imposed upon any such constable, overseer or other officer as aforesaid, shall be applied and disposed of for the relief of the poor of the parish, township or place where the offenders shall respectively reside, at the discretion of the justices imposing the same; and such fine or fines which may be imposed upon any such master or mistress shall, at the discretion of the justices imposing the same, be either so applied and disposed of as aforesaid, or be otherwise paid and applied to or for the use and benefit of such apprentice, for or towards a recompense or compensation for the injury which may have been by him or her sustained by reason of such ill usage as aforesaid; and if any person shall be aggrieved by the imposition of such fine or fines as aforesaid, or by any order or warrant of distress for raising and levying the same, or by the judgment or determination of the said justices, or by any act to be done in the execution of such warrant of distress, such person or persons so aggrieved shall and may appeal to the next general or quarter sessions of the peace. . . .

Justices may impose fines upon constables, &c., for neglect of duty, and on masters for ill usage of apprentices.

Application of fines.

Persons aggrieved may appeal to the quarter sessions.

[Sect. 2. *No persons to be deemed trespassers on account of irregularity in proceedings, &c.* Repealed by the S. J. Act. 1884.]

POOR REMOVAL ACT, 1795.

35 GEO. III., CHAP. 101.

An Act to prevent the Removal of Poor Persons until they shall become actually chargeable. [22nd June, 1795.]

Preamble.

13 & 14 Car. 2, c. 12, recited.

WHEREAS by an Act passed in the thirteenth and fourteenth years of the reign of King Charles the Second, intituled "An Act for the better Relief of the Poor of this Kingdom," reciting, that, whereas, by reason of some defects in the law, poor people are not restrained from going from one parish to another, and therefore do endeavour to settle themselves in those parishes where there is the best stock, the largest commons or wastes to build cottages, and the most woods for them to burn and destroy; and when they have consumed it then to another parish, and at last become rogues and vagabonds, to the great discouragement of parishes to provide stocks where it is liable to be devoured by strangers; for remedy whereof, it is thereby amongst other things enacted, that it shall and may be lawful, upon complaint made by the churchwardens or overseers of the poor of any parish to any

---

Sect. 1.

Note.

For the powers of justices to make orders of removal generally, see 13 & 14 Car. 2, c. 12, s. 1, and the notes thereto.

"Taking these two statutes together (*i.e.*, 13 & 14 Car. 2, c. 12, and this statute), the meaning of them is, that the stat. 35 Geo. 3, c. 101, takes away altogether the power of removing, within forty days, persons likely to become chargeable, but gives the power to remove persons actually chargeable, at any time after they have become so, and before they have actually gained a settlement in the removing parish" (*Rex* v. *Ampthill*, [1824] 2 B. & C. at p. 853, *per* Bailey, J.). But this statement of the law must now be taken subject to the provisions of the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), and the Acts amending and extending the same, whereby continuous residence in a parish or union for the period of a year confers upon the person so residing an exemption from removal from such parish or union, although no settlement has thereby been gained therein. Casual poor and sick persons (unless likely to be permanently disabled by the sickness or accident) are also not liable to be removed. (See 9 & 10 Vict. c. 66, s. 4.)

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 56, for the purposes of chargeability, "all relief given to or on account of the wife, or to or on account of any child or children under the age of sixteen, not being blind, or deaf and dumb, shall be considered as given to the husband of such wife, or to the father of such child or children, as the case may be; and any relief given to or on account of any child or children under the age of sixteen of any widow, shall be considered as given to such widow."

"Actually chargeable.

Any person inhabiting in a parish or union who applies for, and in fact receives relief from the parish or union, thereby becomes

justice of the peace within forty days after any such person or persons coming so to settle as aforesaid in any tenement under the yearly value of ten pounds, for any two justices of the peace, whereof one to be of the quorum, of the division where any person or persons that are likely to be chargeable to the parish shall come to inhabit, by their warrant to remove and convey such person or persons to such parish where he or they were last legally settled, either as a native, householder, sojourner, apprentice or servant, for the space of forty days at the least, unless he or they give sufficient security for the discharge of the said parish, to be allowed by the said justices: And whereas many industrious poor persons, chargeable to the parish, township or place where they live merely from want of

Sect. 1.

Sect. 1. Note.

"actually chargeable," although he may be possessed of property sufficient to maintain him. Thus, where a man having furniture in his house to the value of 15*l.* or 16*l.*, became distressed and applied to the overseers for relief, who were compelled by order to relieve him, it was contended that he was not thereby chargeable to the parish, within the meaning of this statute, as he had property sufficient, if sold, to maintain him: but the court held that, by applying for and receiving relief, he became actually chargeable within the meaning of the Act (*Rex* v. *Ampthill*, 2 B. & C. 847). But relief given by mistake does not make the recipient "actually chargeable" (*Rex* v. *Bedingham*, 5 Q. B. 653; 13 L. J. M. C. 75).

Certain persons, such as felons, reputed thieves, idle and disorderly persons, &c., are to be "deemed actually chargeable," and so removable. (See note to sect. 5, *infra*.)

By virtue of the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 1, and of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 25, and of the various Local Government Orders made under the latter Act, orders of removal from parishes or unions are now obtained by the guardians of such parishes or unions. By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 69, and the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 11, the certificate of the removing guardians is sufficient evidence, unless the contrary be shown, that the pauper to be removed is "actually chargeable."

Proof of chargeability.

Evidence must be given of the actual chargeability of the pauper to the parish or union at the time; otherwise the justices have no jurisdiction to order him to be removed (*Reg.* v. *Black Callerton*, 10 A. & E. 679). The best way of proving the chargeability is by the certificate of the guardians under the statutes above mentioned. Swearing merely that the pauper is chargeable is not deemed sufficient; there must be evidence of relief given (*Reg.* v. *High Bickington*, 13 L. J. M. C. 74; S. P. *Reg.* v. *Great Bolton*, 14 L. J. M. C. 122), or that the party is in the workhouse (*Rex* v. *Manchester*, 14 L. J. M. C. 126).

A relieving officer under a board of guardians for a union stated in his examination that he had paid the pauper's parish relief in money for upwards of a year then last past, during which time he had paid them 2*s.* 6*d.* weekly and every week on account of the township of S., out of money in his hands belonging to the said township. This was holden to be insufficient proof of chargeability; for, as he was an officer of the whole union, his authority from the

Sect. 2.

work there, would in any other place where sufficient employment is to be had maintain themselves and families without being burthensome to any parish, township or place, and such poor persons are for the most part compelled to live in their own parishes, townships or places, and are not permitted to inhabit elsewhere, under pretence that they are likely to become chargeable to the parish, township or place into which they go for the purpose of getting employment, although the labour of such poor persons might in many instances be very beneficial to such parish, township, or place: And whereas the remedy intended to be applied thereto, by the granting of certificates in pursuance of the Act passed in the eighth and ninth years of the reign of King William the Third, intituled "An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom," hath been found very ineffectual, and it is necessary that other provisions should be made relating thereto: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act so much of the said in part recited Act of the thirteenth and fourteenth years of King Charles the Second as enables the justices to remove any person or persons that are likely to be chargeable to the parish, township or place into which they shall come to inhabit, shall be and the same is hereby repealed; and that from henceforth no poor person shall be removed by virtue of any order of removal from the parish or place where such poor person shall be inhabiting to the place of his or her last legal settlement, until such person shall have become actually chargeable to the parish, township or place in which such person shall then inhabit, in which case two justices of the peace are hereby empowered to remove the person or persons in the same manner and subject to the same appeal and with the same powers as might have been done before the passing of this Act with respect to persons likely to become chargeable.

So much of recited Act as enables justices to remove persons likely to be chargeable to parishes repealed, and no persons to be removed till they become chargeable.

Sect. 1. Note.

particular township to pay the money should have been shown (*Reg.* v. *Bradford, Wilts*, 15 L. J. M. C. 117).

When unnecessary to prove chargeability.

In the following cases, however, it is not necessary to prove relief, in order to show chargeability: (1) Where the party to be removed has been convicted of larceny or other felony, 35 Geo. 3, c. 101, s. 5; (2) Where he is convicted of being an idle or disorderly person, rogue, or vagabond, 5 Geo. 4, c. 83, s. 20; (3) Where he shall appear to any two or more justices of the peace of the division wherein such person shall reside, upon the oath of one or more credible witness or witnesses, to be a person of evil fame, or a reputed thief, such person not being able to give a satisfactory account of himself or herself or of his or her way of living, 35 Geo. 3, c. 101, s. 5; in all these cases the party shall be deemed to be actually chargeable, and liable to be removed to the parish of his last legal settlement.

Sect. 2.

Justices to suspend the removal of sick persons.

II. And whereas poor persons are often removed or passed to the place of their settlement during the time of their sickness, to the great danger of their lives: For remedy thereof, be it further enacted by the authority aforesaid, that in case any poor person shall from henceforth be brought before any justice or justices of the peace for the purpose of being removed from the place where he or she is inhabiting or sojourning, by virtue of any order of removal, or of being passed by virtue of any vagrant pass, and it shall appear to the said justice or justices that such poor person is unable to travel by reason of sickness or other infirmity, or that it would be dangerous for him or her so to do, the justice or justices making such order of removal or granting such vagrant pass are hereby required and authorized to suspend the execution of the same until they are satisfied that it may safely be executed without danger to any person who is the subject thereof, which suspension of and subsequent permission to execute the same shall be respectively indorsed on the said order of removal or vagrant pass, and signed by such justice or justices; and no act done by any such poor person continuing to reside in any parish, township or place under the suspension of any such order shall be effectual either in the whole or in part for the purpose of giving him or her a settlement in the same; and the charges proved upon oath to have been incurred by such suspension of any order of removal may by the said justices be directed to be paid by the churchwardens and overseers of the parish or place to which such poor person is ordered to be removed, in case any removal shall take place, or in case of the death of such poor person before the execution of such order; and if the churchwardens or overseers of the parish, township or place to which the order of removal shall be made, or any or either of them, shall, upon the removal or death of such poor person ordered to be removed, refuse or neglect to pay the said charges within three days after demand thereof, and shall not within the same time give notice of appeal as is herein-after mentioned, it shall and may be lawful

Charges incurred by such suspension may be directed to be paid by the officers of the parish to which such persons are ordered to be removed, and may be levied with costs.

Sect. 2. — Note.

The powers of justices in suspending orders of removal and the consequences of such suspensions are considerably modified by the Poor Law (Settlement and Removal) Act, 1799 (49 Geo. 3, c. 124), which must be read as one with this Act.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 84, as amended by subsequent statutes, the parish or union of settlement is not liable to repay to the relieving parish or union the expenses of maintenance of a pauper under a suspended order of removal unless notice of such order and a copy of the same and a statement of the grounds of removal shall be sent within ten days of such order being made to the guardians of the parish or union of settlement.

By the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 10, all provisions which relate to the sending and service of copies of orders of removal shall apply to such orders when suspended, and to

Sect. 2.

for one justice of the peace, by warrant under his hand and seal, to cause the money mentioned in such order to be levied by distress and sale of the goods and chattels of the person or persons so refusing or neglecting payment of the same, and also such costs attending the same, not exceeding forty shillings, as such justice shall direct; and if the parish, township or place to which the removal of such poor person is made, or was ordered to be made, before the death of such person as aforesaid, be without the jurisdiction of the justice of the peace issuing the warrant, then such warrant shall be transmitted to any justice of the peace having jurisdiction within such parish, township or place as aforesaid, who upon receipt thereof is hereby authorized and required to indorse the same for execution: Provided nevertheless, that if the sum so ordered to be paid on account of such costs and charges exceed the sum of twenty pounds, the party or parties aggrieved by such order may appeal to the next general quarter sessions against the same, as they may do against an order for the removal of poor persons by any law now in being; and if the court of quarter sessions shall be of opinion that the sum so awarded be more than of right ought to have been directed to be paid, such court may and is hereby directed to strike out the sum contained in the said order, and insert the sum which in the judgment of such court ought to be paid; and in every such case the said court of quarter sessions shall direct that the said order so amended shall be carried into execution by the said justices by whom the order was originally made or either of them, or in case of the death of either of them by such other justice or justices as the said court shall direct. . . .

If costs and charges exceed 20*l.*, appeal may be made to the quarter sessions.

Sect. 2.

all orders consequent upon such suspension, and to all copies of charges arising thereon, and demands of payment of such charges.

Note.

By the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 8, "where the execution of any order of justices for the removal of a pauper shall have been or shall be suspended, the overseers of the parish (guardians of the union) to which the removal is thereby ordered to be made may from time to time during the continuance of the suspension, if they think fit, pay to the overseers of the parish (guardians of the union) obtaining such order the cost and expenses incurred in the maintenance and relief of the poor person mentioned in such order, and shall have credit for every such payment in the charges allowed by any order of justices subsequently made."

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 26, guardians of the relieving union may recover from the guardians of the union of settlement the reasonable costs of maintenance of the pauper during suspension of the order by action in the county court. The question may arise whether that is not the only manner in which such costs can be recovered from guardians (see *Peebles* v. *Oswaldtwistle Urban District Council*, [1897] 1 Q. B. 625; 66 L. J. Q. B. 392; 76 L. T. 315; 45 W. R. 454; 61 J. P. 308).

Formalities.

The suspension of an order must be made at the time the question

Sect. 2. Note.

of removal is being inquired into before the justices, the justices being after that time *functi officio* (*R.* v. *Llanelchid*, 2 E. & E. 530; 29 L. J. M. C. 102; 6 Jur. (N. S.) 198; 8 W. R. 214; and see *Hill* v. *Thorncroft*, 29 L. J. M. C. 52; 7 Jur. (N. S.) 163; 24 J. P. 741; S. C. *Collumpton* v. *Brighton*, 3 L. T. (N. S.) 318).

But where an order for removal not appealed against cannot be executed at the expiration of the twenty-one days by reason of the sickness of the pauper, the justices may make a fresh order for removal and suspend the same without any formal supersedeas or notice of abandonment of the previous order (*Atcham Union* v. *Birmingham Union*, 56 J. P. 297).

Where the pauper was too unwell to be brought before the magistrates, and they made the order of removal, and suspended it entirely on the evidence of the pauper's father, it was objected that it was only in cases where the pauper was brought before the magistrates that the latter have authority under this section to suspend the order of removal. But the court held that according to the fair meaning of the statute, it was sufficient to bring the queston of the removal and suspension before the magistrates, and that it was not necessary that the pauper himself should personally appear before them (*Rex* v. *Everdon*, 9 East, 101).

An order was made for the removal of a man, his wife and children, which was suspended on account of the man's illness; the man afterwards dying, the wife and children were removed under the order, without any permission indorsed, and an order made for costs; these orders were objected to, because, as no permission to execute the original order was indorsed upon it, it remained still suspended, and the order for costs could not be made during the suspension, and for this reason the sessions quashed both orders. But the court held that this ought not to have been done; the orders were good upon the face of them, and therefore ought not to be quashed merely because there was not another order, or a permission to execute the first one (*Rex* v. *Englefield*, 13 East, 317).

Where the original order, and the suspension indorsed, had the county of Cornwall in the margin, but the subsequent permission and order for costs, indorsed also upon the original order, had no venue in the margin, although it described the justices as justices of the peace for the said county of Cornwall: the court held this subsequent permission and order for costs bad, as not showing that they were made within the justices' jurisdiction (*Reg.* v. *Crowan*, 14 Q. B. 221; 19 L. J. M. C. 20; 3 N. S. C. 663; 13 Jur. 1099). But in a subsequent case the court allowed the order to be amended in this respect (*Reg.* v. *Hellingley*, 23 J. P. 276).

Service of order.

The order must be served within a reasonable time or it will perhaps be deemed a nullity. An order was made and suspended in May, 1821, but was not served until February, 1824, when the pauper dying; it was served at the same time with an order for reimbursing the costs of maintenance: the court held as the order of removal and suspension was not served within a reasonable time it was a nullity, and therefore the order for the costs of maintenance could not be supported (*Rex* v. *Lampeter*, 3 B. & C. 454).

An order of removal was made in May, 1825, and was suspended on account of the pauper's illness; it was not served until August, 1826; in January, 1831, the suspension was taken off by an order of justices, which also ordered the payment of 80*l.* 12*s.* 6*d.* as the

Sect. 2.

Note.

costs of maintenance: and in February, 1831, the pauper was removed, he being from May, 1825, until then, in such a bad state of health that he could not be removed. The parish then appealed against the first order, and the sessions held that, as it had not been served within a reasonable time after it was made, it was void, and they therefore quashed both orders: but the court held that this made the order voidable only upon appeal, and not void; and if the parish had appealed against it at the next sessions after they were served with it in 1826, the sessions might have quashed it for that reason if they thought fit; but as they had not appealed in time, they could no longer avail themselves of the objection (*Rex* v. *Penkridge*, 3 B. & Ad. 538). Whether the decision in this case is affected by the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 31), s. 10, *quære*.

No settlement pending suspension.

A pauper was actually removed, but it appeared that he had resided in the removing parish more than five years before the making of the original order of removal, and there was an appeal against the order for costs on this ground; the court held that as the removal was illegal it was the same as if there had been no removal at all, and therefore quashed the order for costs (*Reg.* v. *Chedgrave* (No. 1), 12 Q. B. 206; 19 L. J. M. C. 54; 4 N. S. C. 69; 14 Jur. 1092). The overseers afterwards applied to two justices for an order for the costs of maintenance under 4 & 5 Will. 4, c. 76, s. 84, but the justices refused it, conceiving that the section did not apply to such a case. The court, however, upon a rule being applied for commanding the justices to make the order, held that sect. 84 of 4 & 5 Will. 4, c. 76, did apply to such a case, and they made the rule absolute (*Reg.* v. *Chedgrave* (No. 2), 20 L. J. M. C. 23; S. C. *Reg.* v. *Wodehouse*, 15 Q. B. 1037).

In March, 1832, a pauper took a house in the parish of St. John, Hackney, at a rent of 18*l.* a year; in October, 1832, an order was made for his removal, but it was suspended on account of his illness; in February, 1833, he was removed, but on the same day returned with his family to his house, and continued to occupy and pay rent for it until the July following. The court held that he did not thereby gain a settlement; by 35 Geo. 3, c. 101, s. 2, no act done by the pauper, during the suspension of the order, could gain a settlement, and the occupation of the house was an act done by the pauper within the meaning of the statute; as therefore his occupation from October to February could not be reckoned, he gained no settlement by this renting of the tenement (*Rex* v. *St. John's, Hackney*, 2 A. & E. 584). But where a pauper during the suspension of an order of removal became irremovable in consequence of an estate having descended to him, it was held that such a case was not within 35 Geo. 3, c. 101, s. 2, and that the pauper not having been removed, no order for the payment of any charges incurred during the suspension of the original order of removal could be made (*Rex* v. *Chagford*, 4 B. & Ald. 235).

Expenses of maintenance during suspension.

A pauper settled in Oldland resided in the parish of M. for a considerable time, when, meeting with an accident, he became chargeable to M.; the overseers of M. thereupon obtained an order for his removal, but as he was too ill to be removed, they had the order suspended; in about five months afterwards, upon his recovery, the suspension being taken off, he was removed, and two justices made an order upon the overseers of Oldland for the expenses incurred by M. under the order of suspension. The court

Sect. 2. Note.

held that the order was properly made; here the party removed had been resident in M.; it would have been otherwise if he had been mere casual poor when he met with the accident (*Rex.* v. *Oldland*, 4 A. & E. 929).

In 1860 an order was made for the removal of a pauper and his wife from St. M. to S., their place of settlement. The order was suspended on account of the sickness of the pauper, who remained at St. M. with his wife until his death in June, 1861. Shortly before his death the wife became unable to travel by reason of sickness, and continued sick until she died in April, 1867, having in March, 1866, become irremovable from St. M. under 28 & 29 Vict. c. 79, s. 8. An order having been obtained after her death by St. M. on S. for the expenses of her maintenance subsequent to the death of her husband: it was held, that although the order of removal was suspended in consequence of the sickness of the husband it continued suspended as to the wife, and that her expenses of maintenance up to March, 1866, must be paid by S.; and also that the order for expenses was rightly made in April, 1867, on the death of the wife, although she had become irremovable in March, 1866 (*Reg.* v. *Sculcoates*, L. R. 4 Q. B. 32; 38 L. J. M. C. 33; 17 W. R. 100).

Where the costs ordered to be paid under this section exceeded 20*l.*, and there was no appeal, but four months afterwards, upon application for a distress warrant to levy them, it was objected that the parish was not liable because the pauper had been residing in the removing parish for more than five years before the order for his removal had been made, and the justice thereupon refused the warrant: the Court of Queen's Bench, upon application, ordered the justice to grant it, holding that the only manner in which the objection could be available was upon appeal, and the time for appealing having elapsed the parish was without remedy (*Ex p. Williams*, 2 E. & B. 84; 22 L. J. M. C. 125). And even where the costs are under 20*l.*, so that there can be no appeal, the justices cannot inquire into the propriety of issuing their warrant, but if the order be good on the face of it, they must enforce it by warrant of distress (*Reg.* v. *Higginson*, 2 B. & S. 471; 31 L. J. M. C. 189; S. C. *Reg.* v. *Yorks. N. R. JJ.*, 6 L. T. (N. S.) 351; 26 J. P. 629, *supra*).

The backing of a warrant of distress mentioned in this section is a mere ministerial act, and should be performed on application. It has nothing to do with the legality of the warrant or original order (*Rex* v. *Kynaston*, 1 East, 117).

Order for costs of maintenance under suspended order cannot be made *ex parte*.

The general practice for nearly a century was that the order for cost of maintenance under a suspended order of removal should be made *ex parte*. In 1891, however, a divisional court held that this practice sanctioned by 35 Geo. 3, c. 101, s. 2, was repealed by 4 & 5 Will. 4, c. 76, s. 84, or at all events by sect. 6 of the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), and that an application to justices by the removing union for an order for the payment by the union to which the pauper belongs of the cost of his maintenance during the period of suspension, must be made upon summons served upon the union which it is sought to make liable for such costs (*Reg.* v. *Yorks. W. R. JJ.*, [1891] 1 Q. B. 722; 60 L. J. M. C. 122).

Appeal against the order for costs of maintenance.

After an order of removal was suspended, the pauper died, and thereupon the justices made an order for the costs of maintenance; the parish, who were ordered to pay the costs, then appealed against the original order and the order for costs: it was objected that

Sect. 3.

[Sect. 3. *No person to gain a settlement by delivery and publication of a written notice:* Repealed by the S. L. R. Act, 1871.]

No settlement to be gained by paying taxes for a tenement of less than 10*l.* yearly value.

IV. Provided always, and be it further enacted by the authority aforesaid, that from and after the passing of this Act no person or persons whatsoever, who shall come into any parish, township or place, shall gain a settlement in such parish, township or place by being charged with and paying his, her or their share towards the public taxes or levies of the said parish, township or place, for and on account or in respect of any tenement or tenements not being of the yearly value of ten pounds.

Persons convicted of larceny, &c. to be considered as chargeable, and may be removed.

V. Provided also, and be it further enacted, that every person who shall have been convicted of larceny or any other felony, . . . or who shall appear to any two or more justices of the peace of the division wherein such person shall reside, upon the oath of one or more credible witness or witnesses, to

---

Sect. 2. Note.

they could not appeal against the original order, for as the pauper had not been removed they were not aggrieved, and they could not appeal against the order for costs, for the costs were under 20*l.*; but the court held that they were aggrieved, as having to pay these costs, and therefore they were entitled to appeal against the original order (*Reg.* v. *St. Marylebone*, 13 East, 51).

An appeal against an order for costs was objected to because notice of it was not given within three days after removal of the pauper and demand of the costs: the court held that it was not necessary to give the notice within that time: the only consequence of not paying those costs within three days after demand is, that they may then be levied by distress (*Rex* v. *Bradford*, 9 East, 97).

Sect. 4. Note.

Settlement by payment of taxes was established by the Poor Relief Act, 1691 (3 Wm. & M. c. 11), s. 6, and may still be gained under that statute, as modified by this section, by any person paying rates in respect of a tenement of which he is owner (*Gainsborough* v. *Worksop*, 37 J. P. 293). If, however, the tenement is not the property of the person paying the rates, a settlement cannot be gained by payment of parochial taxes, unless the provisions of the Poor Relief (Settlement) Act, 1825 (6 Geo. 4, c. 57), s. 2, as amended by the Poor Relief (Settlement) Act, 1831 (1 Will. 4, c. 18), s. 2, are also complied with.

Under this section a person who occupied and paid an annual rent of 4*l.* for part of a house, of which the annual value was 18*l.*, did not gain a settlement by payment of the parochial taxes for the whole house (*Rex* v. *Penrhyn*, 5 M. & S. 443).

Sect. 5. Note.

The words omitted from this section referring to rogues and vagabonds are repealed by the S. L. R. Act. 1871.

By the Vagrant Act, 1825 (5 Geo. 4, c. 83), s. 20, "every person who under the provisions of this Act shall have been convicted as

be a person of evil fame or a reputed thief, such person not being able to give a satisfactory account of himself or herself or of his or her way of living, shall be considered as a person actually chargeable within the true intent and meaning of this Act to the parish in which such person shall reside, and shall be liable to be removed to the parish of his or her last legal settlement by the order of the said justices of the peace, whereof one to be of the quorum, of the division where any such person shall reside. Sect. 5.

[Sect. 6. *Unmarried women with child to be deemed chargeable; bastards to be deemed of the mother's parish:* Repealed by the S. L. R. Act, 1871.]

POOR RELIEF ACT, 1795.

36 GEO. III., CHAP. 10.

An Act for the better Relief of the Poor within the several Hundreds, Towns and Districts in that Part of Great Britain called England, incorporated by divers Acts of Parliament for the Purpose of the better Maintenance and Employment of the Poor; and for enlarging the Powers of the Guardians of the Poor within the said several Hundreds, Towns and Districts, as to the Assessments to be made upon the several Parishes, Hamlets and Places within their respective Hundreds, Towns and Districts for the Support and Maintenance of the Poor.

[18th December, 1795.]

WHEREAS several Acts of Parliament have of late years been made and passed for the better relief and employment of the poor in particular incorporated hundreds, towns and districts within that part of Great Britain called England: and whereas certain persons described and appointed by the said several Acts are thereby empowered to assess the several parishes, hamlets and places, chargeable to the poor's rate within the said several hundreds, towns or districts respectively, in such sums of money as they shall think necessary for defraying the expenses of supporting and maintaining the poor within their Preamble.

---

an idle and disorderly person, or as a rogue and vagabond, shall be deemed to be actually chargeable to the parish, township, or place in which such person shall reside, and such person shall be liable to be removed to the parish of his or her last legal settlement, by the order of the justices of the peace of the division or place in which such person shall reside." Sect. 5. Note.

The condition that one of the justices should be of the quorum was abolished by 4 Geo. 4, c. 27, now repealed by the S. L. R. Act (No. 2), 1890.

respective hundreds, towns and districts, and for other the purposes of the said Acts, but such sums of money for which such assessments are to be made are by the said several Acts of Parliament limited so as that they may not exceed a certain sum in any one year, which sum was calculated upon an average of the amount of the poor's rates in each parish respectively for a certain number of years previous to the passing of the respective incorporating Acts: And whereas by reason of the late very great increase of the price of corn and other necessary articles of life the amount of the rates and assessments so limited by the said several Acts of Parliament are become insufficient for the necessary relief and maintenance of the poor, who have also of late greatly increased in number: And whereas in many incorporated hundreds, towns and districts the expense of maintaining the poor since the first day of January one thousand seven hundred and ninety-five has exceeded the whole amount of the rates which could be raised in the present year within those hundreds, towns and districts, under their respective incorporating Acts, whereby considerable debts have on that account been incurred by the guardians of the poor of those hundreds, towns and districts; and it is therefore become necessary and expedient that the powers of the several persons to whom is committed by the said several Acts of Parliament the duty of appointing the sums to be assessed on the several parishes, hamlets and places within their respective hundreds, towns and districts should be enlarged: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act it shall and may be lawful for the directors and acting guardians of the poor within any hundred, town or district, in that part of Great Britain called England, incorporated by any Act of Parliament for the relief or maintenance and employment of the poor, or for any other persons, by whatsoever name they are called or described, to whom is given by any such incorporating Act the power of appointing the sum or sums to be assessed on the several parishes, hamlets or places within their respective hundreds, towns or districts, for the maintenance of the poor, and other the purposes of such Act, at any of their annual, quarterly or other general meetings, whenever the average price of wheat at the corn market in Mark Lane, London, for the quarter immediately preceding such annual, quarterly or other general meeting shall have exceeded the average price of wheat at the same market during those years from which the average amount of the poor's rates was taken upon the passing of the several incorporating Acts respectively, to assess the several parishes, hamlets and places within their respective hundreds, towns or districts, which now are or usually have been charged

Directors and acting guardians of the poor incorporated by Acts of Parliament may in certain cases make such assessments as may be necessary for the support and maintenance of the poor, &c., notwithstanding they may exceed the assessments limited by the respective Acts.

to the poor's rates, in such respective sums of money as the said directors and acting guardians or such other persons as aforesaid shall think necessary for defraying the expenses attending the support and maintenance of the poor for the current quarter, and for paying the interest of the money borrowed and due by virtue of the said respective Acts, and of any debts which may have been incurred since the first day of January one thousand seven hundred and ninety-five in the maintenance of the poor, and for other the purposes of the said Acts, notwithstanding such sums of money so to be assessed should exceed the amount of the assessments limited by such respective Acts of Parliament to be assessed on the respective parishes, hamlets and places within such incorporated hundreds, towns or districts in any one year: Provided always, that the sums to be assessed and the assessments to be made by virtue of this Act in each respective incorporated hundred, town or district shall be assessed, made, collected and paid in the same manner, and subject to the same restrictions, regulations, limitations and powers of appeal, and with the like powers and remedies for compelling payment thereof, as the sums to be assessed and the assessments to be made by virtue of the several incorporating Acts are by those respective Acts directed to be assessed, collected and made within the several hundreds, towns and districts respectively incorporated by those Acts: Provided also, that the sums to be assessed by virtue of this Act upon any parish, hamlet or place shall be in the same rates and proportions as the assessments which have hitherto been made and levied by virtue of the said Act or Acts incorporating the several hundreds, towns or districts in which such parishes, hamlets or places are respectively situated. . . .

Assessments by virtue of this Act to be made, &c., as those under the incorporating Acts.

[The average price of wheat in 1800 was 113*s.* 10*d.* a quarter, and rose to 119*s.* 6*d.* in 1801.]

POOR RATE ACT, 1801.

41 GEO. III., CHAP. 23.

An Act for the better Collection of Rates made for the Relief of the Poor. [18th April, 1801.]

WHEREAS by an Act of Parliament, made and passed in the seventeenth year of the reign of His late Majesty King George the Second, intituled "An Act for remedying some defects in the Act, made in the forty-third year of the reign of Queen Elizabeth, intituled 'An Act for the Relief of the Poor,'"

Recital of 17 Geo. 2, c. 38.

Under the Poor Relief Act, 1601 (43 Eliz. c. 2), the only judgment that the sessions could give was that the rate should be confirmed or quashed; but the sessions assumed the power, after quashing a rate, of making a new rate against which there was no

Sect. 1. Note.

Sect. 1.

power was given to justices of the peace, upon appeals from rates and assessments, where they should see just cause to give relief, to amend the same in such manner only as should be necessary for giving such relief, without altering such rates or assessments with respect to other persons mentioned in the same: And whereas the quashing or setting aside of rates or assessments made for the relief of the poor is attended with great inconvenience; and it hath happened, in consequence of the rate or assessment being quashed or set aside, or of notice of appeal against the whole rate being given, the churchwardens and overseers of the poor have not had any money in hand for the relief and maintenance of the poor: For remedy whereof, may it please your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, upon all appeals from any rate or assessment made for the relief of the poor of any parish, township, vill, or place, the court of general or quarter sessions of the peace shall, and such court is hereby authorized and required (in all cases where they shall see just cause to give relief) to amend such rate or assessment, either by inserting therein or striking out the name or names of any person or persons, or by altering the sum or sums therein charged on any person or persons, or in any other manner which the said court shall think necessary for giving such relief, and without quashing or wholly setting aside such rate or assessment: Provided always, that if the said court shall be of opinion that it is necessary, for the purpose of giving relief

On appeal from any poor rate, the quarter sessions may amend it without quashing it; or, if necessary, may quash the rate, but the sum assessed shall notwithstanding be levied.

Sect. 1.

Note.

appeal. By the Poor Relief Act, 1743 (17 Geo. 2, c. 38), it was provided that upon all appeals from rates and assessments, the justices should amend the same in such manner only as shall be necessary for giving the necessary relief, without altering such rates or assessments with respect to other persons mentioned in the same; but if upon an appeal from the whole rate, it shall be found necessary to quash and set aside the same, then they should order and direct the churchwardens and overseers of the poor to make a new equal rate or assessment.

There were two defects which the last mentioned statute did not remedy, first, that upon an appeal against the whole rate, the rate was still to be quashed, and in the intermediate time between the quashing of the whole rate and the making and enforcing of the new there might be no funds to maintain or provide for the poor; secondly, the justices had no power to amend the rate by altering the sum for which any other person but the appellant was rated, nor could they add any person to the rate, although that might form the subject of the appellant's complaint. The object of the present statute was to provide a remedy for these defects.

By the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 6, an appeal lies against a poor rate to special sessions on the ground of irregularity, unfairness, or incorrectness in valuation of hereditaments; and by sect. 7 the justices at such special sessions have

to the person or persons appealing, that the rate or assessment should be wholly quashed, then the said court may quash the same; but nevertheless, all and every the sum and sums of money in and by such rate or assessment charged on any person

Sect. 1.

---

all the powers for amending or quashing such rate, and awarding costs as courts of quarter sessions upon appeals against such rate.

Sect. 1.

Note.

By the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 22, when the result of an appeal against a poor rate shall be to amend the rate appealed against, the assessment committee shall alter the valuation list in conformity with the decision so made.

This power of amending a rate is given by this Act to the sessions alone. The Queen's Bench Division have no authority to do it (*Rex* v. *Milton*, 3 B. & Ald. 112).

On appeal against a rate on the ground that particular persons are or particular property is improperly assessed or rated, the quarter sessions ought not to quash the whole rate, but should amend it in the required particular (*Rex* v. *Ambleside*, 16 East, 380; *Rex* v. *Witney*, 5 Burr. 2634; *Rex* v. *Ringwood*, Cowp. 326; *Rex* v. *Cheshunt*, 2 T. R. 623).

Where the subject matter of a rate is improperly described in the rate, the rate is not to be quashed by striking out the name of the person rated, but amended by altering the description of the property rated. Where the appellant was rated for a "toll-house and tolls for foot-passengers," the court held that the recorder might have struck out the non-assessable part, namely, the tolls, and ought not to have struck out the name of the appellant altogether (*Reg.* or *Williams* v. *Bedminster Union*, 1 Q. B. D. 503; 45 L. J. M. C. 117; 34 L. T. (N. S.) 795; 40 J. P. 743).

Where a rate is appealed against and reduced, but the party rated has during the appeal paid on the unreduced assessment, the overseers may in a subsequent rate credit him for the excess paid without an order of sessions (*Reg.* v. *Parker*, 7 E. & B. 155; 26 L. J. M. C. 199; 3 Jur. (N. S.) 771; 21 J. P. 390).

Excess payments.

Credit for excess payment must be given in the next effective rate, and an agreement between the ratepayer and the overseers that the next rate should be levied in full, and that the credit of the excess paid on the quashed rate should be given in a rate to be subsequently made, will not justify the justices in refusing to issue a warrant of distress to enforce payment of such subsequent rate in full (*Reg.* v. *Kingston-on-Thames JJ.*, or *Lambert*, E. B. & E. 259; 27 L. J. M. C. 199; 4 Jur. (N. S.) 759; 6 W. R. 551).

In contradistinction to the above case, however, an appeal was brought against a rate and the matter was referred to arbitration, and consequently considerable delay took place, and when the award was made reducing the assessment of the appellant the overseers refused to be bound by it, and distrained for the whole of the next rate, it was held that the proceedings of the overseers were against good faith, and that the replevin bond given by the appellant should be delivered back to him (*L. & N. W. Ry. Co.* v. *Bedford*, 17 Q. B. 978; followed in *Leicester Waterworks Co.* v. *Cropstone*, 44 L. J. M. C. 92; 32 L. T. (N. S.) 567; 40 J. P. 165, where the facts were almost identical with those in the *Bedford Case*).

Where, on objection being made to a poor rate, the rating authority has fixed the amount of the gross estimated rental of

Sect. 2.

or persons, shall and may be levied and recovered by such ways and means, and in such and the same manner, as if no appeal had been made against such rate or assessment; and all and every the sum and sums of money which any person or persons charged in such rate or assessment shall pay, or which shall be levied upon or recovered from him, her, or them, shall be deemed and taken as payments on account of the next effective rate or rates, assessment or assessments, which shall be made for the relief of the poor of the same parish, township, vill, or place.

Notice of appeal not to prevent distress being made for the recovery of the rate, provided the sum be not greater than that assessed in the last effective rate.

II. And . . . from and after the passing of this Act, all and every the sum and sums of money at which any person or persons is or are or shall be rated or assessed, in any rate or assessment made for the relief of the poor of any parish, township, vill, or place, shall and may be levied and recovered by distress, and all other lawful ways and means, notwithstanding the person or persons so rated or assessed, or any other person or persons, shall have given notice of appeal from or against such rate or assessment, for any cause whatsoever: Provided always, that if any person, rated or assessed in any rate or assessment made for the relief of the poor, shall give such notice of appeal as herein-after mentioned to the churchwardens and overseers of the poor of any parish, township, vill, or place, or any two of them, then, from and after the giving of such notice, and until the appeal shall have been heard and determined, no proceedings shall be commenced or carried on to recover any greater sum or sums of money from such person or persons, than the sum or sums at which he, she, or they, or any occupier of the same premises, shall have been rated or assessed in the last effective rate which shall have been collected in such parish, township, vill, or place.

Sect. 1.

Note.

the premises rated appearing in the rate-book, and the ratepayer appeals against the rate, the rating authority is bound by the amount of the gross estimated rental so fixed, and is not entitled to call evidence at the sessions to show that it was fixed too low (*Horton* v. *Walsall Union*, [1898] 2 Q. B. 237).

The fact that quarter sessions confirm a rate on one ground will not render it valid, if it be radically bad on some other ground (*Rex* v. *Newcomb*, 4 T. R. 368).

A decision of the court in respect of a poor rate for one year does not bind the same court to decide in the same way in respect of a poor rate for another year, though made upon the same person and in respect of the same property. The doctrine of *res judicata* does not apply in such a case (*Leith Harbour and Docks Commissioners* v. *Inspector of the Poor*, L. R. 1 Sc. Ap. 17).

Sect. 2.

Note.

Where overseers distrained for an increased rate after an appeal had been entered, but of which appeal no notice had been given to the overseers, and the rate was reduced on the hearing of the appeal, it was held that, as no notice of appeal had been given to the overseers, an action would not lie against the overseers to recover back the excess above the last effective rate (*Priestley* v. *Watson*, 2 C. & M. 621; 3 L. J. M. C. 113).

Sect. 3.

Quarter sessions having ordered a rate to be quashed, may order the sum charged on any person not to be paid, and stop proceedings for the recovery thereof, &c.

III. And . . . in case the said court of general or quarter sessions of the peace shall upon appeal order any rate or assessment for the relief of the poor to be quashed, it shall be lawful for the said court to order that any sum or sums of money in and by such rate or assessment charged on any person or persons, or any part of any such sum or sums, not to be paid; and then and in every such case no proceedings shall, after making such order, be commenced, or if any proceedings have been previously commenced, such proceedings shall be no further prosecuted or carried on for the purpose of levying or enforcing the payment of any sum or sums which shall be so ordered by the said court not to be paid as aforesaid: Provided always, that no justice of the peace, constable, or other officer of the peace or other person shall be deemed a trespasser, or liable to any action, for any warrant, order, act, or thing which such justice, constable, or other officer or person shall have granted, made, executed, or done for the purpose of levying or enforcing the payment of any such sum or sums of money, before he shall have had notice in writing of the order for the non-payment of such sum or sums of money, which the said court is hereby authorized to make as aforesaid.

Notices of appeal to be given to churchwardens and overseers of the poor, &c and grounds of appeal stated in such notices.

IV. And . . . from and after the passing of this Act, all notices of appeal from or against any rate or assessment made for the relief of the poor, or from or against the account of the churchwardens and overseers of the poor of any parish, township, vill, or place, shall be in writing, and shall be signed by the person or persons giving the same, or his, her, or their attorney, on his, her, or their behalf; and such notices of appeal shall be delivered to or left at the places of abode of the churchwardens and overseers of the poor of the parish, township, vill, or place, or any two of them, and the particular causes or grounds of appeal shall be stated and specified in such notice; and upon the hearing of any appeal from or against any such rate or assessment, or account, the court of general or quarter sessions to which such appeal shall be made, shall not examine or inquire into any other cause or ground of appeal than such as are or is stated and specified in the notice of appeal.

Sect. 3. Note.

Justices of the peace are now protected from actions generally in respect of the issue of warrants of distress for poor rates by the Justices Protection Act, 1848 (11 & 12 Vict. c. 44).

Sect. 4. Note.

Appeals against the accounts of churchwardens and overseers were abolished by the operation of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32 to 37.

By the Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict, c. 39), s. 1, twenty-one days' notice of appeal against a rate, with the grounds thereof, must also be given to the assessment committee of the union.

Sect. 5.

Appeals may be decided, if the parties consent, although notice be not given, or on grounds not stated in notice.

V. Provided nevertheless, . . . that with the consent of the overseers, signified by them or their attorney in open court, and with the consent of any other person interested therein, the said court of sessions may proceed to hear and decide upon such appeal, although no notice thereof shall have been given in writing; and also that with the like consent such court may hear and decide upon grounds of appeal, not stated or misstated in such written notice, where any notice shall have been given in writing.

Persons appealing against any rate shall give notice, not

VI. And . . . from and after the passing of this Act, if any person or persons shall appeal against any rate or assessment made for the relief of the poor, because any other person or persons is or are rated or assessed in such rate or assessment, or

---

Sect. 4.

Note.

The Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 4, provided for "reasonable notice" of appeal being given to the churchwardens and overseers. The Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), provides by sect. 1 that such notice shall be a clear fourteen days' notice; by sect. 2 that no objection to the reception of legal evidence offered in support of any ground of appeal shall prevail unless the court is of opinion that such ground of appeal is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to prepare for trial; and that the court may allow any ground of appeal to be amended on terms; and by sect. 4, that if the court considers any grounds of appeal to be frivolous or vexatious, it may make the appellant pay the whole of the costs occasioned thereby.

Where notice of appeal had been served on the collector, and not on the overseers, a *mandamus* was issued to the justices to enter and respite the appeal (*Shrewsbury and Hereford Ry. Co.* v. *Leominster*, 21 J. P. 149).

In rural parishes churchwardens having ceased to be overseers are no longer to be served with notice, the expression "churchwardens and overseers" being construed as "overseers" alone (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (3)). And although by sect. 6 (1) (c) of that Act, in rural parishes having a parish council the power, duties, and liabilities of the overseers or churchwardens and overseers with respect to "appeals in respect of the poor rate" are transferred to the parish council, the overseers must still be served with notice of appeal under this section. And it is not necessary to serve such notice on the parish council, nor upon the district council of an urban district upon which parish council powers have been conferred by order of the Local Government Board (*Reg.* v. *De Grey*, [1900] 1 Q. B. 521, dissenting from a contrary decision in *Reg.* v. *Kent JJ.*, 80 L. T. 622).

The sessions have no power to quash a poor rate for a defect not stated in the grounds of appeal, although it be apparent on the face of the rate (*Rex* v. *Bromyard*, 8 B. & C. 240).

Sect. 5.

Note.

The waiver must be signified in open court as required by this section, and no other species of waiver is admissible (*Rex* v. *Sheard*, 2 B. & C. 856).

Sect. 6.

only to the churchwardens, &c., but also to the persons interested, &c.

is or are omitted to be rated or assessed therein, or because any other person or persons is or are rated or assessed in any such rate or assessment at any greater or less sum or sums of money than the sum or sums at which he, she, or they ought to be rated or assessed therein, or for any other cause that may require any alteration to be made in such rate or assessment with respect to any other person or persons, then and in every such case the person or persons so appealing for the causes aforesaid, or any of them, shall give such notice of appeal, in writing as herein-before mentioned, not only to the churchwardens or overseers of the poor, or any two or more of them, but also to the other person or persons so interested or concerned in the event of such appeal as aforesaid: and such other person or persons shall, if he, she, or they shall so desire, be heard upon the said appeal; and it shall be lawful for the court of general or quarter sessions of the peace, on the hearing of such appeal, to order the name or names of such other person or persons to be inserted in such rate or assessment, and him, her, or them to be therein rated and assessed at any sum or sums of money, or to order the name or names of such other person or persons to be struck out of such rate or assessment, or the sum or sums at which he, she, or they is or are rated or assessed therein, to be altered, in such manner as the said court shall think right; and the proper officer of the said court shall forthwith add to or alter the rate or assessment accordingly.

Sect. 6.

Note.

Upon an appeal against a rate, the appellant attempted to give in evidence that one Peach, as tenant to Lord Sondes, was possessed of 140 acres of land in the parish, for which no person was rated; but this was objected to, as there was no evidence of service of notice of the appeal upon Peach, and the sessions holding this to be a valid objection, confirmed the rate. The Court of King's Bench held that the sessions were right, and confirmed their order (*Rex* v. *Brooke*, 9 B. & C. 915; 8 L. J. (o. s.) M. C. 33; 4 M. & R. 719).

It seems doubtful, however, whether in this case the sessions ought not to have respited the appeal as was decided in a later case to be the proper course to be taken. In the later case a ground of appeal was that other persons were omitted to be rated. Notices of appeal addressed to the parish officers and to the other persons were duly served on the parish officers, but not on the other persons. On objection being taken, the appellants applied to the sessions to respite the appeal, which they refused to do and dismissed the appeal with costs. The Court of Queen's Bench, however, held that under 17 Geo. 2, c. 38, s. 4, and 41 Geo. 3, c. 23, s. 6, they were bound to adjourn the appeal till the next sessions (*Reg.* v. *Eyre* (No. 1), 6 E. & B. 992; 26 L. J. M. C. 14; 28 L. T. 100; 2 Jur. (N. S.) 1207; *Reg.* v. *Herefordshire JJ.*, 28 L. T. 286). Afterwards the appellant served a fresh notice on the parish officers, addressed to them only, containing practically the same grounds of appeal as the former notice. The sessions thereupon dismissed the appeal, and the court held that the fresh notice altered the character of the appeal, and therefore it was too late, and the sessions were right in dismissing the appeal (*Reg.* v. *Eyre*

Sect. 7.

The rate as altered by the quarter sessions to be recovered in the same manner as the original rate.

VII. And . . . if upon the hearing of any appeal from or against any rate or assessment, the said court shall order the name or names of any person or persons to be inserted therein, and him, her, or them to be rated or assessed at any sum or sums of money, or shall order the sum or sums at which any person or persons is or are therein rated or assessed to be raised or increased, then and in such case all and every the sum and sums of money, at or to which such person or persons shall be so ordered to be rated or assessed, or to be raised or increased, or so much thereof as shall not have been already paid, shall and may be recovered in such and the same manner, and by such and the same means, as if he, she, or they had been originally named in such rate or assessment, and rated or assessed therein at such sum or sums of money.

In case in the rate the name of any person shall be struck out, or any sum lowered, the quarter sessions shall order any sums paid in excess to be repaid.

VIII. And . . . if upon the hearing of any appeal from any rate or assessment for the relief of the poor, the court of general or quarter sessions of the peace shall order the name or names of any person or persons to be struck out of such rate or assessment, or the sum or sums rated or assessed on any person or persons to be decreased or lowered, and if it shall be made appear to the said court that such person or persons hath or have, previously to the hearing of such appeal, paid any sum or sums of money, in consequence of such rate or assessment, which he, she, or they ought not to have paid or been charged with, then and in every such case the said court shall order all and every such sum and sums of money to be repaid and returned, by the said churchwardens and overseers of the poor, to the person or persons having paid the same respectively, together with all reasonable

---

Sect. 6.

Note.

(No. 2), 7 E. & B. 619; 26 L. J. M. C. 125; 29 L. T. 91; 3 Jur. (N. S.) 912).

Where the grounds of appeal consist of objections to the underrating of other persons, and also of objections to the rating of the appellant, the grounds of appeal are divisible, and if the other persons have not been duly served with notice of appeal, the appellant may abandon his objection against the other persons and prosecute his appeal upon the remaining grounds, and the sessions are wrong in dismissing the appeal altogether for want of notice to the other persons (*R.* v. *Kent JJ.*, L. R. 6 Q. B. 132; 40 L. J. M. C. 76; 19 W. R. 205; 35 J. P. 454, overruling *R.* v. *Cambridgeshire JJ.*, 19 L. J. M. C. 131).

Where one of the grounds of appeal was that the appellant was rated in respect of his lands in a higher proportion than all the other inhabitants mentioned in the rate, it was held that it was not necessary to give notice of appeal to all the inhabitants named in the rate (*Rex* v. *Suffolk JJ.*, [1818] 1 B. & Ald. 640).

Sect. 8.

Note.

An application for an order under this section to refund money paid for a poor rate after it has been reduced on appeal must be made to the court of quarter sessions which heard the appeal

costs, charges, and expenses, occasioned by such person or persons having paid or been required to pay the same; and all and every the sums and sums of money so ordered to be repaid or returned by the churchwardens and overseers of the poor, or any of them, shall and may, together with all such costs, charges, and expenses as aforesaid, be levied and recovered from them, or any of them, by distress and all such other ways and means as the money charged, rated, or assessed on any person, by any rate or assessment made for the relief of the poor, can or may be by law levied or recovered. Sect. 8.

[Sect. 9 repealed by the S. L. R. Act, 1872.]

PARISH APPRENTICES ACT, 1802.

42 GEO. III., CHAP. 46.

An Act to require Overseers and Guardians of the Poor to keep a Register of the several Children who shall be bound or assigned by them as Apprentices; and to extend the Provisions of an Act passed in the Twentieth Year of the Reign of His present Majesty, to the binding of Apprentices by Houses of Industry, or Establishments for the Poor, which have been authorized so to do by subsequent Acts. [7th May, 1802.]

WHEREAS by an Act passed in the forty-third year of the reign of Queen Elizabeth, intituled "An Act for the Relief of the Poor," the overseers of the poor of every parish are enabled to bind out any poor children as apprentices, until every such poor male child shall attain the age of twenty-four years, and until every such female child shall attain the age of twenty-one years, or the time of her marriage: And whereas it would tend to the benefit of the children so bound as apprentices, if the overseers of the poor were required to keep a register of all children who shall be so bound: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's Recital of 43 Eliz. c. 2.

---

or to the court which ordered the rate to be reduced (*Rex* v. *St. Peter's, York, JJ.*, 4 B. & Ad. 342; 1 N. & M. 108; 2 L. J. M. C. 46). Sect. 8. Note.

Excess monies paid for poor rate pending appeal against the rate may, if the rate is reduced on appeal under sect. 1, *supra*, be allowed without any order of sessions by the overseers out of the next effective rate (*Reg.* v. *Parker*, 7 E. & B. 155; 26 L. J. M. C. 199; 3 Jur. (N. S.) 771; 21 J. P. 390).

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 12, no poor child shall be bound apprentice by the overseers of any parish included in a union, or subject to a board of guardians, but it shall be lawful for the guardians to bind such poor child Sect. 1. Note.

Sect. 1.

The overseers of the poor shall, after June 1, 1802, keep a book for entering the name of every apprentice bound out by them, and each entry shall be signed by two justices according to the form in the schedule.

Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that the overseers of the poor of every parish, township, or place, appointed by virtue of the said recited Act, passed in the forty-third year of the reign of Queen Elizabeth, shall, from and after the first day of June, and they are hereby required to provide and keep a book or books, at the expense of the said parish, township, or place, and to enter or cause to be entered therein the name of every child who shall be bound out by them respectively as an apprentice, together with the several other particulars, in manner and form required by this Act, according to the schedule hereunto annexed; and every such entry, when made in the said register, shall be produced and laid before the two justices of the peace who shall signify their assent to the indenture of apprenticeship of every such child, at the time when such indenture shall be laid before such justices for their assent, as required by the said recited Act; and each entry in the said register shall, if approved of by such justices, be signed by them according to the form marked in the schedule hereunto annexed.

Penalty for not providing such book, or neglecting to make such entries therein, &c.

II. And . . . if any overseer or overseers of the poor shall refuse or neglect to provide and keep such book or books or to make such entry therein as before directed, or shall destroy, or permit, suffer, or cause to be destroyed, any such book or books, or shall wilfully and knowingly obliterate, deface, or alter any such entry, so that the same shall not be a true entry of the several particulars hereby required, or shall wilfully and knowingly make a false entry therein, or shall so permit, suffer, or cause the same to be done, or shall not produce or lay such book or books before such justices as aforesaid for their signatures, or shall not deliver or tender, or cause to be delivered or tendered, such book or books to his, her, or their successor or successors in office, within fourteen days after the appointment of such successor or successors, or if any such successor or successors shall refuse or neglect to receive the same when offered or tendered to him or them by his or their predecessor or predecessors in office, then and in every such case every such person

---

Sect. 1. Note.

apprentice, and in such case the indentures shall not require to be allowed, assented to or executed by justices of the peace; and the guardians shall cause all apprentices bound or assigned by them to be registered by their clerk according to the form prescribed by this Act, so far as the same may be applicable to such binding or assignment.

Sect. 2. Note.

See note to sect. 1, *supra*.

The words omitted from this section relating to recovery of penalties by distress or imprisonment are repealed by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), s. 4.

Sect. 2.

so offending shall, for every such offence, on being convicted thereof before any two justices of the peace for the county, city, or place where the offence shall be committed, on the oath of any credible witness (which oath such justices are hereby empowered and required to administer), or on the voluntary confession of the party or parties, forfeit and pay a sum not exceeding five pounds, . . . and such penalties and forfeitures shall be applied for the use of the poor of the parish, township, or place, for which such offender or offenders shall be overseer or overseers; . . .

Books may be inspected, and shall be deemed evidence in case of loss, &c., of indentures.

III. And . . . it shall and may be lawful for any person or persons, at all seasonable hours, to inspect such book or books in the hands of the said overseer or overseers, and to take a copy of such entry in such book or books, upon payment of the sum of sixpence, except in case of any of His Majesty's justices of the peace acting in and for the said county, who shall be entitled at all such times to inspect such book gratis; and every such book shall be and be deemed to be sufficient evidence in all courts of law whatsoever, in proof of the existence of such indentures, and also of the several particulars specified in the said register respecting such indentures, in case it shall be proved to the satisfaction of such court that the said indentures are lost or have been destroyed.

[Sect. 4. *Form of conviction:* Repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4.]

When assignments of apprentices take place under 32 Geo. 3, c. 57, an entry thereof shall be made in such books in manner herein directed.

V. And . . . whenever any such apprentice shall be assigned or bound over to any other master or mistress by virtue of an Act passed in the thirty-second year of the reign of His present Majesty, intituled "An Act for further Regulation of Parish Apprentices," then and in every such case, the overseer or overseers, party or parties to the assignment of such apprentice, shall insert the name and residence of the master or mistress to whom such apprentice shall be assigned or bound over as aforesaid, together with the other particulars, in the book or books herein directed to be provided and kept by such overseer or overseers; and for non-performance thereof, every such overseer or overseers shall be liable to the pains, penalties, and forfeitures incurred by this Act, in like manner as if such apprentice had been originally bound to such master or mistress.

VI. And whereas by different Acts of Parliament the like powers are given to certain persons therein named, for binding

---

Sect. 5. Note.

See note to sect. 1, *supra*.

For the assigning or binding of apprentices to other masters than those to whom they were originally bound, see 32 Geo. 3, c. 57, s. 7.

Sect. 6.

Persons having like powers as overseers of the poor to bind out apprentices shall comply with the directions of this Act.

out parish apprentices, as are given to the overseers of the poor: Be it therefore enacted, that such several persons shall be subject to the like pains, penalties, and forfeitures, for non-compliance with the several provisions and directions in this Act contained for registering any parish apprentice bound out or assigned by them respectively, to which overseers of the poor are subject and liable by virtue of this Act for non-compliance with such provisions and directions.

Appeal may be made to quarter sessions.

VII. And . . . if any person or persons shall think himself, herself, or themselves aggrieved by anything done in pursuance of this Act, it shall and may be lawful to and for such person or persons to appeal to the justices at the . general quarter sessions of the peace. . . .

[Sect. 8 repealed by the S. L. R. Act, 1872.]

FORM OF REGISTER.

Number.	Date of Indenture.	Name of the Apprentice.	Sex.	Age.	His or her Parents' Names.	Their Residence.	Name of Persons to whom bound or assigned, as the Case may be.	His or her Trade.	His or her Residence.	Term of the Apprenticeship or Assignment.	Apprentice or Assignment Fee.	Overseers Parties to the Indenture or Assignment.	Magistrates assenting.
													(To be signed by themselves.)

Sect. 7.

Note.

The words omitted from this section limiting the appeal to the first quarter sessions held within four months after the cause of appeal should have arisen are repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4.

THE HOUSE TAX ACT, 1808.

48 GEO. III., CHAP. 55.

An Act for repealing the Duties of Assessed Taxes, and granting new Duties in lieu thereof, and certain additional Duties to be consolidated therewith; and also for repealing the Stamp Duties on Game Certificates, and granting new Duties in lieu thereof, to be placed under the Management of the Commissioners for the Affairs of Taxes.

[1st June, 1808.]

[This Act, after imposing a general tax upon houses, windows, and lights, and being still in force with regard to the tax known as the inhabited house duty, contains the following exemptions, among others, from liability to such tax.]

* * * * *

EXEMPTIONS.

* * * * *

Case IV. Any hospital, charity school, or house provided for the reception or relief of poor persons.

* * * * *

BURIAL OF DROWNED PERSONS ACT, 1808.

48 GEO. III., CHAP. 75.

An Act for providing suitable Interment in Churchyards or Parochial Burial Grounds in England for such dead Human Bodies as may be cast on Shore from the Sea, in cases of Wreck or otherwise.* [18th June, 1808.]

WHEREAS no provision hath yet been made by the laws now in force for providing suitable interment in churchyards or parochial burying grounds for such dead human bodies as may be cast on shore from the sea, by wreck or otherwise, in that part of the United Kingdom called England: And whereas it is expedient that provision should be made for the decent

* Extended by the Burial of Drowned Persons Act, 1886 (49 & 50 Vict. c. 20), to provide for the burial of bodies found in or cast ashore from tidal or navigable waters.

Sect. 1.

Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (2) (b) "references in any Act to the churchwardens and overseers shall, as respects any rural parish, except so far as those

Sect. 1.

In cases where dead human bodies shall be cast on shore, churchwardens, &c., of the parish where the body shall be found shall cause the same to be removed and interred in a decent manner in the churchyard of such parish.

Proviso for extra-parochial places.

interment of such bodies: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act the churchwarden and churchwardens, overseer and overseers of the poor for the time being of the respective parishes throughout England, in which any dead human body or dead human bodies shall be found thrown in or cast on shore from the sea by wreck or otherwise, shall and he and they is and are hereby required, upon notice to him or them given that any such body or bodies are thrown in or cast on shore by the sea, and is or are lying within the bounds of the parish for which he or they shall be churchwarden or churchwardens, overseer or overseers of the poor, to cause the same to be forthwith removed to some convenient place, and with all convenient speed to cause such body or bodies to be decently interred in the churchyard or burial ground of such parish, so that the expenses attending on such burial do not exceed the sum which at that time is allowed in such parish for the burial of any person or persons buried at the expense of such parish: Provided always, that in case any such body or bodies shall be thrown in or cast on shore from the sea in an extra-parochial place where there is no churchwarden or churchwardens, overseer or overseers of the poor, then and in every such case the constable or headborough of such place shall, on notice being given to him that such body or bodies is or are lying in such extra-parochial place, forthwith cause such body or bodies to be removed to some convenient place, and with all convenient speed cause the same to be buried in such and the like manner as the churchwardens and overseers within England are hereby required to bury such body or bodies.

Minister of the parish to perform the funeral service, &c.

II. And . . . every minister, parish clerk, and sexton of such respective parishes shall perform their several and respective duties in such and the like manner as is customary

Sect. 1.

references relate to the affairs of the church, be construed as references to the overseers."

Note.

The parish of Woolwich had expended sums of money in burying dead bodies found in the Thames near Woolwich, the result of a collision between two steamers at that place. The parish applied to a justice for an order of reimbursement against the county under 48 Geo. 3, c. 75, s. 6. He refused, and on a case stated by quarter sessions it was held that this part of the tidal river was not sea, and therefore the county was not liable to reimburse the parish under the statute (*Woolwich Churchwardens* v. *Robertson*, 6 Q. B. D. 654; 50 L. J. M. C. 87; 44 L. T. 747; 29 W. R. 892; 45 J. P. 766; *Reg.* v. *Edwards*, 45 J. P. 237). The result of this decision was the passing of 49 & 50 Vict. c. 20, extending the provisions of this Act to bodies found in or cast on shore from any tidal or navigable waters.

in other funerals, and shall admit of such body or bodies being interred in such churchyards or burial grounds without any improper loss of time, receiving for the same, by way of compensation, such and the like sums as in cases of burials made at the expense of such parishes. Sect. 2.

III. And . . . in case any person or persons shall find any such body or bodies cast on shore from the sea by wreck or otherwise, and shall within six hours thereafter give notice thereof to some one of the churchwardens or overseers of the poor of the parish for the time being in which such body or bodies shall be found, or to the constable or headborough for the time being, in case such body or bodies shall be found in any extra-parochial place, or cause such notice to be left at his or their last or usual place or places of abode, then and in every such case such person or persons shall receive the sum of five shillings for his, her, or their trouble, such sum to be forthwith paid to the person or persons first giving such notice only; but nevertheless that no greater sum than five shillings shall be paid for any one notice, although there may be a greater number of such bodies than one. Reward to persons finding dead human bodies cast on shore, and giving notice thereof to parish officers.

IV. Provided always, . . . that in case any person or persons shall find any such body or bodies cast on shore from the sea by wreck or otherwise, and shall not within six hours thereafter give notice to some one of the churchwardens or overseers of the poor of the parish for the time being in which such body or bodies shall be found, or to the constable or headborough for the time being, in case such body or bodies shall be found in any extra-parochial place, or cause such notice to be left at his or their last or usual place or places of abode, then and in every case such person or persons shall for every such offence forfeit and pay the sum of five pounds. Penalty on persons finding dead human bodies cast on shore and not giving notice thereof.

V. And . . . all necessary and proper payments, costs, charges, and expenses, which shall be made or incurred in or about the execution of this Act, shall be made and paid by the churchwarden or churchwardens, overseer or overseers, constable or headborough for the time being of such respective parishes and places as aforesaid. Expenses to be paid by churchwardens, &c.

VI. And, for the purpose of reimbursing him or them all such payments, costs, charges, and expenses, be it further enacted, that it shall and may be lawful to and for any one Reimbursement of expenses by the treasurer of the county.

By the Burial of Drowned Persons Act, 1886 (49 & 50 Vict. c. 20), s. 1, it is sufficient to give the required notice to a police constable. Sect. 4. Note.

By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 67, orders by justices for payment by the county treasurer of costs Sect. 6. Note.

Sect. 6.

justice of the peace for the county or place within that part of the United Kingdom called England, in which any such body or bodies shall have been so removed and buried as aforesaid, by any writing under his hand, to order and direct the treasurer for such county to pay such sum or sums of money to such churchwarden and churchwardens, overseer and overseers, constable or headborough, for his or their costs and expenses in or about the execution of this Act (after the same shall have been duly verified on oath) as to the said justice shall seem reasonable and necessary; and such treasurer shall and he is hereby authorized and required forthwith to pay the sum or sums of money so ordered and directed to be paid to the person or persons empowered to receive the same; and such treasurer shall be allowed the same in his accounts.

Penalty on parish officers neglecting to remove and inter dead human bodies cast on shore.

VII. Provided always, . . . that in case any such churchwarden or churchwardens, overseer or overseers, constable or headborough shall refuse or neglect to remove or cause to be removed such body or bodies from the seashore to some convenient place prior to the interment thereof, for the space of twelve hours after such notice given to him or them, or left in writing at his or their last or usual place or places of abode by any person or persons whomsoever, or shall neglect or refuse to perform the several other duties required of him and them by this Act, then and in every such case every such churchwarden or overseer, constable or headborough, shall for every such offence forfeit and pay the sum of five pounds.

Recovery of penalties under this Act.

VIII. And . . . all penalties and forfeitures which shall be incurred under this Act, . . . when recovered, shall be paid to the informer or informers. . . .

[Sect. 9. Repealed by the S. J. Act, 1884.]

Appeal to the quarter sessions.

X. Provided always, and be it enacted, that if any person or persons shall think himself, herself, or themselves aggrieved by

---

Sect. 6. Note.

under this Act "shall be obeyed by the county treasurer in like manner as heretofore."

An order made by a justice under this section, after stating that he had inquired into and ascertained on oath the costs and expenses, amounting to 1*l.* 15*s.*, incurred by the churchwardens and overseers by reason of a dead human body having been found and brought on to the shore within their parish, directed the county treasurer to pay to them the said sum of 1*l.* 15*s.*, according to 48 Geo. 3, c. 75. The treasurer refused to pay as directed, and on showing cause against a rule for a *mandamus* to compel him to pay, it was held that the order was bad because it did not show that the expenses in question were proper and necessary expenses incurred in and about the execution of the Act, and therefore did not sufficiently state facts to show, or from which it could be inferred, that the justice had jurisdiction to make it (*Reg.* v. *Treasurer of the County of Kent*, 22 Q. B. D. 603; 58 L. J. M. C. 71).

Sect. 10.

any judgment or determination, or by any matter or thing done in pursuance of this Act, such person or persons may appeal to the justices of the peace at the . . . general or quarter sessions of the peace . . . and the said justices may, if they see cause, mitigate any fine, penalty, or forfeiture, and may also order such further satisfaction to be made to the party injured as they shall judge reasonable; and all such determinations of the said justices shall be final, binding, and conclusive upon all parties to all intents and purposes whatsoever.

[Sect. 11. Repealed by the S. J. Act, 1884.]

Penalties to be paid by persons incurring the same, and not by the parish.

XII. Provided always, and be it further enacted, that all penalties and expenses attendant thereon, which shall be incurred under the provisions of this Act, shall be paid and borne by the person or persons incurring the same, and that the parish or place wherein such person or persons ought to have acted in the duties prescribed by this Act shall be wholly exempted therefrom.

Lords of manors, &c., may pay the same fee as heretofore for interring dead human bodies, &c.

XIII. Whereas in cases of dead wrecks wherein no living person is found or owner known, the lords of manors on which any such dead body or dead bodies may be washed in, and who are entitled to wreck there, have usually paid a small fee for the placing such body or bodies in the ground in the state in which the same have been found, and such payments have been adduced and admitted as proof on trials at common law of the right of such lords of manors to wrecks in such manors: Be it therefore enacted, that in all and every such cases it shall and may be lawful to and for all and every lord or lords of any manor or manors throughout England to pay or cause to be paid to the churchwarden or churchwardens, overseer or overseers, constable or headborough of such respective parishes and places as aforesaid, such and the like sums as he or they was or were heretofore accustomed to pay for the placing any such body or bodies into the ground as aforesaid; such sums to go in part payment and discharge of the costs and expenses to be incurred in or about the execution of this Act, and credit to be given for the same by such overseers, churchwardens, constable or headborough, in their accounts with the county to which such accounts shall be submitted, anything in this Act to the contrary thereof in anywise notwithstanding.

[Sect. 14. Repealed by the S. L. R. Act, 1872.]

POOR (SETTLEMENT AND REMOVAL) ACT, 1809.

49 GEO. III., CHAP. 124.

An Act for altering, amending, and explaining certain Acts relative to the Removal of the Poor, and for making Regulations in certain Cases touching the Examination of Paupers as to their Settlement, and for extending to all Parishes certain Rules and Orders in Workhouses under an Act of the Twenty-second Year of His present Majesty, intituled "An Act for the better Relief and Employment of the Poor." [20th June, 1809.]

35 Geo. 3, c. 101.

WHEREAS by an Act passed in the thirty-fifth year of the reign of His present Majesty, intituled "An Act to Prevent the Removal of Poor Persons until they shall become actually chargeable," it is amongst other things enacted that in case any poor person shall be brought before any justice or justices of the peace for the purpose of being removed from the place where he or she is inhabiting or sojourning by virtue of any order of removal, or of being passed by virtue of any vagrant pass, and it shall appear to the said justice or justices that such poor person is unable to travel by reason of sickness or other infirmity, or that it would be dangerous for him or her so to do, the justice or justices making such order of removal or granting such vagrant pass are required and authorized to suspend the execution of the same until they are satisfied that it may safely be executed without danger to any person who is the subject thereof, and that the charges proved upon oath to have been incurred by such suspension of any order of removal may by the said justices be directed to be paid by the churchwardens and overseers of the parish or place to which such poor person is ordered to be removed, in case any removal shall take place, or in case of the death of such poor person before the execution of such order; and by the same Act it is further enacted, that in case of an appeal against any order for the payment of such charges, if the court of quarter sessions shall be of opinion that the sum so awarded be more than of right ought to have been directed to be paid, such court may and is thereby directed to strike out the sum contained in the said order, and insert the sum which in the judgment of such court ought to be paid; and in every such case the court of quarter sessions shall direct that the said order so amended shall be carried into execution by the said justices by whom the order was originally made or either of them, or in case of the death

Sect. 1.

Note. For cases relating generally to suspension of orders of removal, see notes to 35 Geo. 3, c. 101, s. 2, *ante*.

Sect. 1.

of either of them, by such other justice or justices as the court shall direct: And whereas it is expedient that the power of putting an end to the suspensions of any such order of removal or pass and of executing the several or other authorities aforesaid should not be confined to the order of the justice or justices making such order or pass: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, in all cases wherever the execution of any order of removal or of any vagrant pass shall be hereafter suspended by virtue of the said recited Act, it shall be lawful for any other justice or justices of the peace of the county or other jurisdiction within which such removal or pass shall be made to direct and order that the same shall be executed, and to direct the charges to be incurred as aforesaid to be paid, and to carry into execution any such amended orders as aforesaid, as fully and effectually to all intents and purposes as the said respective powers and authorities can or may be executed by the said justices who shall make any such order of removal, or by the justice who shall grant any such pass as aforesaid.

In all cases where any order of removal or vagrant pass shall be suspended, any other justice of the county or place where such removal or pass shall be made may order the same to be executed, &c.

II. And . . . when the execution of any such order of removal shall be suspended the time of appealing against such order shall be computed, according to the rules which govern other like cases, from the time of serving such order, and not from the time of making such removal under and by virtue of the same.

How the time of appealing shall be computed.

Sect. 2.

Note.

At the time of making and serving the original order (April 7th, 1843) the pauper had resided more than five years in the removing parish; the order was suspended, and on September 29th, 1847, an order giving permission to remove him was made, and he was accordingly removed, and the parish to which he was removed then appealed; the court held that although the removal was undoubtedly illegal, the pauper having resided more than five years in the removing parish, yet as the time for appealing was expressly limited by 49 Geo. 3, c. 124, s. 2, to the next practicable sessions after the service of the order, and not after the time of removal, the appellants were too late in their appeal (*Reg.* v. *Chedgrave* (No. 1), 12 Q. B. 206; 19 L. J. M. C. 12; 4 N. S. C. 69; 14 Jur. 266).

It has been held that in order to bring a case within this section, either the order itself must be served, or a copy served, and at the same time the original shown to the appellant. And where a copy merely was served, without showing the original, the court held that an appeal within six years after the order, upon the pauper's being removed, was in sufficient time (*Rex* v. *Alnwick*, 5 B. & Ald. 184). But see now the provisions of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 79, and the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 31), s. 10, as to service of copies of orders of removal.

Sect. 3.

III. And, in order to avoid any pretence for forcibly separating husband and wife, or other persons nearly connected with or related to each other, and who are living together as one family at the time of any order of removal made or vagrant pass granted, during the dangerous sickness or other infirmity of any one or more of such family on whose account the execution of such order of removal or vagrant pass is suspended, be it further enacted and declared, that where any order of removal or vagrant pass shall be suspended by virtue of this or of the said recited Act on account of the dangerous sickness or other infirmity of any person or persons thereby directed to be removed or passed, the execution of such order of removal or vagrant pass shall also be suspended for the same period with respect to every other person named therein, who was actually of the same household or family of such sick or infirm person or persons at the time of such order of removal made or vagrant pass granted.

Order of removal, &c., suspended in case of sickness, &c., shall be suspended as to all persons of the same family named therein, to prevent their separation.

IV. And . . . whenever it shall happen that any pauper is by age, illness, or infirmity unable to be brought up to the petty sessions to be examined as to his or her settlement, it shall be lawful for any one magistrate acting for the district where such pauper shall be to take the examination of the said pauper, and to report the same to any other magistrate or magistrates acting for the said district, and for the said magistrates upon such report to adjudge the settlement of the said pauper, and make and suspend the order of removal, as fully and effectually to all intents and purposes as if the said pauper had appeared before two magistrates.

Any magistrate may take the examination of an infirm pauper as to his settlement, and report to petty sessions.

[Sect. 5. *Two justices in petty sessions may direct regulations of* 22 *Geo.* 3, *c.* 83, *to be observed in any parish:* Repealed by the S. L. R. Act (No. 2), 1872.]

Sect. 3. Note.

See the Poor Removal Act, 1848 (11 & 12 Vict. c. 111), for the restriction on the power of removal of wives and children.

Sect. 4. Note.

Where, in such a case, it was objected that the order of removal ought to have stated specially that the examination had been taken by one magistrate, and reported to another: the court held it to be unnecessary, and confirmed the order (*Rex* v. *South Lynn, All Saints*, 4 M. & S. 354). In a case previous to this Act, where the pauper was too ill to be brought before the justices, and they made their order upon other evidence, and suspended it on account of the illness of the pauper: the court held they had authority to do so (*Rex* v. *Everdon*, 9 East, 101).

This section does not authorize the examination of any witness other than the pauper himself, and there is no jurisdiction to make an order to take the examination of a witness unable to travel for the purpose of using such evidence in removal proceedings (*Ex p. Kimbolton*, 5 L. T. (N. S.) 347).

POOR RATE ACT, 1810.

50 GEO. III., CHAP. 49.

An Act to amend the Laws for the Relief of the Poor, so far as relate to the examining and allowing the Accounts of Churchwardens and Overseers by Justices of the Peace.

[9th June, 1810.]

[As this Act is not expressly repealed it is printed here, but it is now rendered inoperative by sect. 37 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), which provides that in every district for which a district auditor may be appointed, the powers of justices and of all other persons to examine, audit, allow or disallow accounts shall, so far as relates to any accounts which such auditor is authorized to examine and audit cease, and the same are repealed.]

WHEREAS by an Act made in the forty-third year of the reign of Her late Majesty Queen Elizabeth, intituled "An Act for the Relief of the Poor," it is enacted that churchwardens and overseers of the poor of every parish shall within four days after their year and after other overseers nominated make and yield up to two justices of the peace a true and perfect account of all sums of money by them received, or rated and sessed and not received, and of all other things concerning their said office: And whereas by an Act made in the seventeenth year of His late Majesty King George the Second, for remedying some defects in the said recited Act made in the forty-third year of the reign of Queen Elizabeth, it is enacted that the churchwardens and overseers of the poor shall yearly and every year, within fourteen days after other overseers shall be nominated and appointed to succeed them, deliver in to such succeeding overseers a just, true, and perfect account in writing, under the hands of the churchwardens and overseers directed to account, of all sums of money by them received, or rated and assessed and not received, and of all other things concerning their said office; which said account shall be verified by oath, or by the affirmation of persons called Quakers, before one or more of His Majesty's justices of the peace, which said oath or affirmation such justice or justices is and are by the said Act authorized and required to administer, and to sign and attest the caption of the same at the foot of the said account: And whereas it is expedient that two or more justices should be empowered to examine and correct and to allow and approve every such account before the same shall be signed and attested: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that in all cases where any such account is required to be made and yielded, and to be signed and attested

43 Eliz. c. 2.

17 Geo. 2, c. 38.

Accounts of outgoing churchwardens and

Sect. 1.

overseers of the poor to be submitted by them to two or more justices at a special sessions to be held for that purpose.

as aforesaid by virtue of the said last recited Act, every such account shall be submitted by the churchwardens and overseers to two or more justices of the peace of the county, dwelling in or near the parish or place to which such account shall relate, at a special sessions for that purpose to be holden within the fourteen days appointed by the said last recited Act for delivering in such account; and such justices shall and they are hereby authorized and empowered, if they shall so think fit, to examine into the matter of every such account, and to administer an oath or affirmation to such churchwardens and overseers of the truth of such account, and to disallow and strike out of every such account all such charges and payments as they shall deem to be unfounded, and to reduce such as they shall deem to be exorbitant, specifying upon or at the foot of such account every such charge or payment and its amount, so far as such justices shall disallow or reduce the same, and the cause for which the same is disallowed or reduced; and it shall be lawful for such two or more justices, and they are hereby required, to signify their allowance and approbation of any such account under their hands, and to sign and attest the caption of the same at the foot of such account in manner directed by the said last recited Act; And in case such churchwardens and overseers or any of them shall refuse or neglect to make and yield up or to submit such account, or to verify the same by oath as aforesaid, or to deliver over to their successors within ten days from the signing and attesting such accounts any goods, chattels, or other things which on the examination and allowance of such account in manner aforesaid shall appear to be remaining in the hands of such churchwardens or overseers, it shall and may be lawful for any two or more justices of the peace to commit him, her, or them to the common gaol until he, she, or they shall have made and yielded such account, and verified the same as aforesaid, or shall have delivered over such goods, chattels, and other things which shall appear to be so remaining in his, her, or their hands as aforesaid; and in case such churchwardens and overseers or any of them shall refuse or neglect to pay to their successors within fourteen days from the signing and attesting such account any sum or sums of money or arrearages which on the examination and allowance of such account in manner aforesaid shall appear or be found to be due and owing from such churchwardens or overseers or any of them, or remaining in their hands, it shall and may be lawful for the subsequent churchwardens and overseers by warrant from any two or more justices of the peace to levy all such sum and sums of money by distress and sale of the offenders' goods, rendering to the parties the overplus; and in default of such distress it shall be lawful for any such two justices of the peace to commit the offender or offenders to the common gaol of the county, there to remain without bail or mainprize until payment of such sum or sums of money or arrearages as aforesaid.

Penalty for neglect, &c.

Sect. 2.

Churchwardens, &c., may appeal to quarter sessions, against decisions of justices.

II. Provided always, . . . that if such churchwardens or overseers or any of them shall feel themselves, himself, or herself aggrieved by the disallowance or reduction of any such charges or payments, and be desirous of appealing against any order in that respect made by any such two or more justices of the peace, it shall and may be lawful for him, her, or them to enter an appeal against such order, at the next general or quarter sessions to be holden next after the tenth day from the making of such order, he, she, or they having first paid or delivered over to the succeeding churchwardens and overseers such sum and sums of money, goods, chattels, and other things as on the face of the account which shall have been submitted by him, her, or them to such two or more justices in manner aforesaid shall appear and be admitted to be due and owing from him, her, or them, or remaining in his, her, or their hands, and having also entered into a recognizance before one or more such justice or justices, with two sufficient securities to be approved of by such justice or justices before whom such recognizance shall be acknowledged, in not less than double the sum or value in dispute, to enter such appeal at such next general or quarter sessions, and abide by such order as shall at that or any subsequent sessions be made on such appeal; and it shall and may be lawful for the justices of the peace assembled at such general or quarter sessions, on proof of the matters aforesaid, and on the production of such recognizance and proof of the same having been duly entered into, to adjourn such appeal if they shall see occasion, or to hear the same, and to examine into and to confirm or reverse such disallowance or reduction in the whole or in part, as to such justices at such sessions shall seem just; and in any such case the said justices at such sessions may (if they shall think fit) make an order that such churchwardens and overseers shall have the costs by them incurred upon any such appeal defrayed out of the poor rates of the parish or place; and the order of the general quarter sessions in execution of the powers given to them by this Act shall be binding on all parties.

Appeals against accounts may also be made by other persons.

III. Provided also, . . . that nothing herein contained shall take away or be construed to take away any power of appeal against any such account by any other person entitled to appeal against the same by virtue of the said recited Acts or either of them.

Mayors and magistrates of towns corporate shall have the same jurisdiction therein as justices in counties.

IV. And . . . every mayor, bailiff, or other head officer of every town and place corporate and city in Great Britain, or any two magistrates of such town or place corporate or city, being justice or justices of peace respectively, shall have the same authority by virtue of this Act within the limits and precincts of their jurisdictions as is by this Act limited, prescribed, or appointed to justices of the peace of the county or any two

Sect. 4.

or more of them for the execution of this Act; subject nevertheless to an appeal to the general or quarter sessions in every such town or place corporate or city respectively as aforesaid: Provided always, that in any town or place corporate or city where there are not four justices of the peace, it shall and may be lawful for any person or persons where an appeal is given by this Act to appeal, if he or they shall think fit, to the next general or quarter sessions of the peace for the county, riding, or division wherein such town or place corporate or city is situate.

When appeal may be made to quarter sessions of county.

Proceedings of justices not removable by *certiorari*.

V. And . . . no certiorari shall be granted to remove any order or proceeding of any general or quarter sessions or of any justices made or had under this Act into any superior court of record; but . . . all orders and proceedings of such sessions and all orders and proceedings of such justices (subject to such appeal as aforesaid) under this Act shall be final and conclusive to all intents and purposes.

Act not to extend to churchwardens, &c., exempted from accounting under the recited Acts.

VI. Provided also, . . . that nothing in this Act contained shall extend or apply or be construed to extend or apply to the accounts of any churchwarden or overseer of the poor in any parish or place where, by the provisions of any Act or Acts relating to the poor of such parish or place, or by the construction of any such Act or Acts, such churchwardens and overseers are exempted from the rendering the accounts required by the herein-before recited Acts of the forty-third year of the reign of Her late Majesty Queen Elizabeth, and of the seventeenth year of the reign of His late Majesty King George the Second, or either of them; anything herein-before contained to the contrary notwithstanding: Provided also, that nothing in this Act contained shall extend or be construed to extend to the city of London.

Nor to the city of London.

Recited Acts, unless where it is hereby expressly mentioned, not to be affected.

VII. Provided also, . . . that nothing in this Act contained shall alter or repeal any of the provisions or regulations contained in the said recited Acts of the forty-third year of the reign of Her late Majesty Queen Elizabeth, and of the seventeenth year of His late Majesty King George the Second or either of them, other than and except only such provisions or regulations as are expressly mentioned in this Act, and so far as the same are expressly amended or altered by this Act.

PLACES OF RELIGIOUS WORSHIP ACT, 1812.

52 GEO. III., CHAP. 155.

An Act to repeal certain Acts and amend other Acts relating to Religious Worship and Assemblies, and Persons teaching or preaching therein.* [29th July, 1812.]

[So much only of this Act is printed here as relates to, or is necessary for ascertaining the nature of the exemption of the teachers and preachers mentioned from holding parochial offices.]

* * * * *

All places of religious worship of Protestants to be certified and registered.

II. And . . . from and after the passing of this Act no congregation or assembly for religious worship of Protestants (at which there shall be present more than twenty persons besides the immediate family and servants of the person in whose house or upon whose premises such meeting, congregation, or assembly shall be had) shall be permitted or allowed, unless and until the place of such meeting, if the same shall not have been duly certified and registered under any former Act or Acts of Parliament relating to registering places of religious worship, shall have been or shall be certified to the bishop of the diocese, or to the archdeacon of the archdeaconry, or to the justices of the peace at the general or quarter sessions of the peace for the county, riding, division, city, town, or place in which such meeting shall be held; and all places of meeting which shall be so certified to the bishop's or archdeacon's court shall be returned by such court once in each year to the quarter sessions of the county, riding, division, city, town, or place; and all places of meeting which shall be so certified to the quarter sessions of the peace shall be also returned once in each year to the bishop or archdeacon; and all such places shall be registered in the said bishop's or archdeacon's court respectively, and recorded at the said general or quarter sessions, the registrar or clerk of the peace whereof respectively is hereby required to register and record the same; and the bishop or registrar or clerk of the peace to whom any such place of meeting shall be certified under this Act shall give a certificate thereof to such person or persons as shall request or demand the same, for which there shall be no greater fee nor reward taken than two shillings and sixpence; and every person who shall knowingly permit or suffer any such congregation or assembly as aforesaid to meet in any place occupied by him until the same shall have been so certified as aforesaid shall forfeit for every time any such

* Repealed by 34 & 35 Vict. c. 48, as to so much as relates to any oaths or to any declaration other than the declaration set forth in the part of 19 Geo. 3, c. 44, not repealed by that Act.

Sect. 2.

congregation or assembly shall meet contrary to the provisions of this Act a sum not exceeding twenty pounds nor less than twenty shillings, at the discretion of the justices who shall convict for such offence.

* * * * *

Preachers in and persons resorting to religious assemblies certified under this Act, &c., shall be exempt from same penalties as persons taking oaths under 1 Wm. & M. c. 18.

IV. And . . . from and after the passing of this Act every person who shall teach or preach at or officiate in or shall resort to any congregation or congregations, assembly or assemblies, for religious worship of Protestants, whose place of meeting shall be duly certified according to the provisions of this Act or any other Act or Acts of Parliament relating to the certifying and registering of places of religious worship, shall be exempt from all such pains and penalties under any Act or Acts of Parliament relating to religious worship as any person who shall have taken the oaths and made the declaration prescribed by or mentioned in an Act made in the first year of the reign of King William and Queen Mary, intituled "An Act for exempting their Majesties' Protestant subjects dissenting from the Church of England from the penalties of certain laws," or any Act amending the said Act, is by law exempt, as fully and effectually as if all such pains and penalties, and the several Acts enforcing the same, were recited in this Act, and such exemptions as aforesaid were severally and separately enacted in relation thereto.

* * * * *

Teachers having taken the oaths, &c., exempt from offices specified in 1 Wm. & M. c. 18, and from service in the militia.

IX. And . . . every person who shall teach or preach in any such congregation or assembly, or congregations or assemblies as aforesaid, who shall employ himself solely in the duties of a teacher or preacher, and not follow or engage in any trade or business, or other profession, occupation, or employment for his livelihood, except that of a schoolmaster, and who shall produce a certificate of some justice of the peace of his having taken and made and subscribed the oaths and declaration aforesaid, shall be exempt from the civil services and offices specified in the said recited Act passed in the first year of King William and Queen Mary, and from being ballotted to serve and from serving in the militia or local militia of any county town, parish, or place in any part of the United Kingdom.

[See 1 Wm. & M. c. 18, s. 8, *ante*, p. 169, for the offices to which reference is made in this section.]

* * * * *

POOR LAW (OVERSEERS) ACT, 1814.

54 GEO. III., CHAP. 91.

An Act to amend so much of an Act passed in the Forty-third Year of Her late Majesty Queen Elizabeth, as concerns the Time of appointing Overseers of the Poor.

[14th July, 1814.]

WHEREAS by an Act made in the forty-third year of Her late Majesty Queen Elizabeth, intituled "An Act for the Relief of the Poor," it is enacted that the churchwardens of every parish, and four, three, or two substantial householders there, as shall be thought meet, having respect to the greatness of the parish, to be nominated yearly in Easter week, or within one month after Easter, under the hand and seal of two or more justices of the peace in the same county, whereof one to be of the quorum, dwelling in or near the same parish or division where the same parish doth lie, shall be called overseers of the poor of the same parish: And whereas great inconvenience is often found to arise from the time for appointing such overseers being regulated by a movable feast: Be it therefore enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act the appointment of overseers of the poor so directed by said Act of Queen Elizabeth shall in every year be made on the twenty-fifth day of March, or within fourteen days next after the said twenty-fifth day of March, in all and every the same manner as directed by the said Act to be made in Easter week, anything in the said Act or any other Act to the contrary notwithstanding.

43 Eliz. c. 2.

Time for appointment of overseers of the poor.

Note.

The whole Act is repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89, so far as it relates to rural parishes.

The words of this statute are directory only, and an appointment of overseers by justices at any time of the year is good (*Rex* v. *Sparrow*, 2 Str. 1123; *Reg.* v. *Staffordshire JJ.*, or *Sneyd*, 10 L. M. J. C. 166; 9 D. P. C. 1001; 5 Jur. 962).

POOR RELIEF ACT, 1814.

54 GEO. III., CHAP. 170.

An Act to repeal certain Provisions in Local Acts for the Maintenance and Regulation of the Poor; and to make other Provisions in relation thereto. [30th July, 1814.]

WHEREAS divers local Acts of Parliament have lately passed containing enactments relative to the maintenance and

Sect. 1.

regulation of the poor, varying the general law with respect of particular districts, parishes, townships, or hamlets; and it is expedient that some of such enactments should be repealed, and that other provisions contained in such Acts should be made general: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that all enactments and provisions contained in any Act or Acts of Parliament since the commencement of the reign of His late Majesty George the First, whereby any alteration is made in respect of gaining or not gaining a settlement within any particular district, parish, township, or hamlet, shall be and the same are hereby repealed; and that all and every person shall be deemed and taken to have acquired and to acquire a settlement in every such district, parish, township, or hamlet, by any ways or means he, she, or they would or might have done, or would or might do, in case such Act or Acts or any of them had not been made and passed, and notwithstanding the same or any of them are or was in force and operation.

All enactments and provisions in respect of gaining settlements contained in local Acts repealed.

Persons born in prisons, or houses licensed under 13 Geo. 3, c. 82, not to gain a settlement thereby.

II. Provided always, that no person shall be deemed or taken to acquire any settlement in any district, parish, township, or hamlet, by reason of such person being born of the body of any mother actually confined as a prisoner within the walls of any prison, or any house licensed for the reception of pregnant women in pursuance of an Act made and passed in the thirteenth year of His present Majesty's reign for the better regulation of lying-in hospitals and other places appropriated for the charitable reception of pregnant women, in which any such prison or house shall be situated.

Settlement of persons born in a house of industry or poorhouse.

III. Provided always, that whensoever any person shall be born of the body of any poor person in any house of industry or house for the reception and care of the poor of any district, parish, township, or hamlet, which shall be locally situated in any district, parish, township, or hamlet contributing to the expenses of maintaining the poor in such house, or in any other district, parish, township, or hamlet not contributing to

Sect. 2.

Note.

By sect. 5 of the Lying-in Hospitals Act, 1773 (13 Geo. 3, c. 82), bastard children born in such hospitals took the settlement of their mother. As to what constitutes such a lying-in hospital, see sect. 3 of that Act and *Rex* v. *Manchester*, 4 B. & Ald. 504.

Sect. 3.

Note.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 56, for the purposes of relief, settlement, and removal, the workhouse of any union or parish is to be considered as situated in the parish to which each poor person to be relieved or removed or otherwise concerned in any such purpose is or has been chargeable.

Sect. 4.

such expense, such person shall, so far as regards the settlement of such person, be deemed and taken to be born in the district, parish, township, or hamlet, by whom the mother of such person was sent to, and on whose account the mother of such person was received and maintained in such house.

Prisoners on civil process or for contempt not to gain settlements while in custody.

IV. Provided always, . . . that no person shall be deemed or taken to gain any settlement by reason of any residence within any district, parish, township, or hamlet, while he, she, or they shall be detained or confined as a prisoner within any such district, parish, township, or hamlet, on any civil process or for any contempt whatsoever.

No gate-keeper, &c., residing in a toll-house to gain a settlement thereby.

V. Provided always, . . . that no gate-keeper or toll-keeper of any turnpike road or navigation or person renting the tolls and residing in any toll-house of any turnpike road or navigation shall thereby gain any settlement in any district, parish, township, or hamlet.

No person maintained in a charitable institution to gain any settlement by residence therein.

VI. Provided always, . . . that no person or persons shall gain any settlement in any district, parish, township, or hamlet, by reason of any residence in any house or other dwelling-place provided for the residence of such person or persons by any charitable institution, while such person or persons shall be supported and maintained at the expense of such charitable institution as an object or objects of such charity.

Sect. 5.

Note.

The Turnpike Act, 1823 (3 Geo. 4, c. 126), s. 51, contains a similar prohibition to the effect that "no collector or person renting the tolls on a turnpike road, or residing in any toll-house, and no apprentice or servant of such collector or person shall thereby gain a settlement in any parish or place whatsoever." This, however, merely prevents such collector, &c., from gaining a settlement by residing in the toll-house, or renting the tolls, but does not hinder him from gaining a settlement in any other manner, even in the same parish. And therefore, where a man agreed with the lessee of such tolls to collect them for him, and also rented a field in the parish for 12*l.* a year, living at the same time in the toll-house, the court held that he thereby gained a settlement (*Rex* v. *Denbigh*, 5 East, 333). And it would seem that such a person might gain a settlement by residence in the toll-house under 39 & 40 Vict. c. 61, s. 34.

A toll-house, used also as a public-house, and consequently of greater annual value than a mere toll-house, was held by reason of this section not to confer a settlement upon the occupier (*Rex* v. *St. Andrew-the-Less, Cambridge*, 10 B. & C. 742).

Sect. 6.

Note.

It is not correct to say that this section is repealed by implication by subsequent statutes, but, nevertheless, residence in a charitable institution maintained by *bonâ fide* charitable gifts, may render an inmate irremovable, and after three years' irremovability confer on such inmate a settlement under 39 & 40 Vict. c. 61, s. 34 (*Fulham* v. *Thanet Union*, 7 Q. B. D. 539; 44 L. T. 138; 45 J. P. 552).

Sect. 7.
Restriction as to power of masters, &c., of poorhouses to punish or confine.

VII. And . . . from and after the passing of this Act it shall not be lawful for the master, governor, or other person entrusted with the superintendence of any house for the reception of poor persons, or the churchwarden, overseer, or other persons elected, constituted, or appointed by or under the authority of any Act or Acts of Parliament for the control or management of the poor of any district, parish, township, or hamlet, to punish with any corporal punishment whatsoever any adult person or persons under his, her, or their care or charge for any offence or misbehaviour whatsoever; or to confine any such person or persons whatsoever for any offence or misbehaviour for any longer or greater space of time than twenty-four hours, or such further space of time as may be necessary in order to have such persons or persons before a justice of the peace; anything in any Act or Acts of Parliament contained to the contrary in anywise notwithstanding.

[S. 8. *Overseers may sue on securities to indemnify against bastards.* S. 9. *Inhabitants not incompetent witnesses in rating, settlement, or removal cases on behalf or against parishes:* Repealed by the S. L. R. Act, 1873.]

Churchwardens, &c., may employ persons to convey paupers ordered to be removed.

X. And . . . it shall and may be lawful for the churchwardens, overseers, or others having the control, ordering, or management of the poor of any district, parish, township, or hamlet, to employ any proper person or persons whomsoever to carry, remove, and deliver any pauper or paupers ordered to be removed by any of His Majesty's justices of the peace competent to make such order; and . . . a delivery by such person or persons of any pauper or paupers so ordered to be removed shall be as good, valid, and effectual to all purposes whatsoever as if the same was or were delivered by any churchwarden or overseer whatsoever.

Sect. 7. Note.

By the Workhouse Act, 1816 (56 Geo. 3, c. 129), s. 2, governors, &c., of any house of industry or workhouse are prohibited from chaining or manacling any poor person of sane mind on any pretence.

Further provision is made for the regulation of punishments in a workhouse by the Poor Relief Act, 1815 (55 Geo. 3, c. 137), s. 5, the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 5, and the Gen. Cons. Order, July 24th, 1847, arts. 133—142.

Sect. 10. Note.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 2, persons chargeable in a union are removed by the guardians of the union; and where a separate parish is under a board of guardians who are authorized by order of the Local Government Board to apply for orders of removal as provided by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 25, persons chargeable in such parish are removed by the guardians. If, however, no order of the Local Government Board so authorizes the guardians of the parish, the removal must still be made by the

Sect. 11.

Justices in petty sessions, with consent of parish officers, may discharge poor persons from the payment of parish rates.

XI. And . . . it shall and may be lawful for any two or more of His Majesty's justices of the peace acting for the county, riding, division, or jurisdiction, in which any district, parish, township, or hamlet shall be situated, in petty sessions assembled, on application made to them by any person rated to any rates or cesses within any such district, township, parish, or hamlet to be discharged therefrom, and proof of his or her inability through poverty to pay such rate or cess, with the consent of the churchwardens and overseers of such district, parish, township, or hamlet, or of such other person or persons as is or are competent to act under the authority of any Act or Acts of Parliament, for the ordering, management, control, or direction of the poor of any such district, parish, township, or hamlet, to order and direct that such person shall be excused from the payment of such rate or cess, and to strike out his or her name therefrom ; and the sum at which such person was so rated in such rate or cess shall not thereafter be collected, or any person or persons charged therewith, or in any manner called or liable to account for the same, or for omitting to collect or receive the same.

Sect. 10.

Note.

overseers of such parish, who must deliver the pauper to the overseers of the parish of settlement (*Reg.* v. *Northwich Union*, L. R. 2 Q. B. 383; 8 B. & S. 354; 36 L. J. M. C. 57; 16 L. T. (N. S.) 321; 15 W. R. 742).

It is sufficient, either under the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), s. 7, or under the Union Chargeability Act (28 & 29 Vict. c. 79), s. 2, to deliver the pauper at the workhouse of the parish or union of settlement to some officer of the workhouse.

Sect. 11.

Note.

A freeman who has within the year been excused from paying a poor rate under this section upon proof before the justices of inability through poverty to pay such rate is not disqualified from being registered as a parliamentary elector on the ground of having received parochial relief within the Representation of the People Act, 1832 (2 & 3 Will. 4, c. 45), s. 36 (*Dunn* v. *Mashiter*, 6 C. B. 30; 18 L. J. C. P. 13).

But where a claimant to a borough franchise who was otherwise duly qualified under the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), claiming to be on the list of inhabitant occupiers, had not paid a poor rate which had been made in the June next preceding the qualifying year, to which he had been rated in respect of the qualifying premises, but from the payment of which he was, in the following October, excused by the justices under this section, it was held that the claimant was disqualified by reason of such non-payment, and that the excusal under this section, being after the commencement of the qualifying year, did not save him from such disqualification (*Abel* v. *Lee*, L. R. 6 C. P. 365; 40 L. J. C. P. 154; 23 L. T. (N. S.) 844; 19 W. R. 625; 35 J. P. 343).

The landlord cannot be rated in respect of tenements let to tenants who have been excused payment of rates on account of poverty (*Rex* v. *Hull Dock Co.*, 3 B. & C. 516).

Sect. 12.

Goods of persons neglecting to pay poor rate, &c., may be distrained in other parishes of the county, and for want of sufficient distress in the county, in another county.

XII. And . . . the goods and chattels of any person or persons neglecting or refusing to pay any sum or sums of money legally assessed on and due from him, her, or them in respect of any rate for the relief of the poor, church cess or highway cess of any district, parish, township, or hamlet, for the space of seven days after the same shall have been legally demanded of him, her, or them, shall and may be distrained, not only within such district, parish, township, or hamlet, but also within any other district, parish, township, or hamlet within the same county, riding, division, or jurisdiction; and if sufficient distress cannot be found within the same county, riding, division, or jurisdiction, then upon oath thereof made before any one or more justice or justices of the peace of any other county, riding, division, or jurisdiction in which any of the goods or chattels of such persons shall be found, which oath such justice or justices are hereby required to administer and certify by indorsing in his, or their respective handwriting, his or their name or names on the warrant granted to make such distress, the goods and chattels of the said person or persons so neglecting or refusing to pay as aforesaid shall be subject and liable to such distress and sale in such other county, riding, division, or jurisdiction where the same shall be found, and may by virtue of such warrant and certificate be distrained and sold in the same manner as if the same had been found within the district, parish, township, or hamlet, in or for which such rate or cess had been made or was due.

Sect. 12.

Note.

Poor rates are leviable by distress on the warrant of two justices by the Poor Relief Act, 1603 (43 Eliz. c. 2), s. 2, and the procedure is now regulated by the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14), the Poor Rates Recovery Act, 1862 (25 & 26 Vict. c. 82), and the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), ss. 39, 40.

To constitute a legal demand of a poor rate, the rate must be demanded of the party liable (*Rex* v. *Benn and Church*, 6 T. R. 198), but it is not necessary to produce the rate-book on making the demand (*Reg.* v. *Gloucestershire JJ.*, 24 J. P. 39). In a parish in which there are more than thirty ratepayers on the rate-book and in which there is no collector, and in every parish in which there is a collector, the demand must be made by leaving a demand note with the ratepayer or at his address (Gen. Ord., June 14th, 1875). If the ratepayer does not live on the premises or in the parish the demand note must be delivered to the person having the custody of the premises, or if no such person can be found, must be affixed to some conspicuous part of the premises. The exact sum legally due must be demanded, and the distress be for that sum and no more, and one demand of several rates, some of which are bad, is not a valid demand of that portion which is good (*Hurrell* v. *Wink*, 8 Taunt. 369). And where there is a remedy by distress warrant of justices an action will not lie for recovery of a rate (*Stevens* v. *Evans*, 2 Burr. 1152; 1 W. Bl. 284; *Danby* v. *Watson*, 46 L. J. M. C. 179; 36 L. T. (N. S.) 412; 25 W. R. 464; 41 J. P. 406).

By the Justices Protection Act, 1848 (11 & 12 Vict. c. 44), s. 4, no action lies against justices for irregularity in granting a warrant of distress for poor rates.

POOR RELIEF ACT, 1815.

55 GEO. III., CHAP. 137.

An Act to prevent poor Persons in Workhouses from Embezzling certain Property provided for their use ; . . . and for other Purposes therein mentioned relating to the Poor.

[4th July, 1815.]

[Preamble recited that persons received into workhouses and there clothed, and persons relieved by having clothes given to them by parish officers, frequently pawned or sold such clothes, and that by the laws then in force no punishment could be inflicted on them, or on the persons buying or receiving the same into pawn.]

Property in goods, &c., provided for the use of the poor of a parish, &c., to be vested in overseers.

I. The property of and in all and singular the goods, chattels, furniture, provisions, clothes, linen, and wearing apparel, tools, utensils, materials, and things whatsoever, had and to be had, bought, procured, or provided for the use of the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places, shall be and the same is hereby vested in the overseers of the poor of such parish or parishes, township or townships, hamlet or hamlets, place or places for the time being, and their successors in office, for the purposes of this Act, who are hereby empowered to bring or cause to be brought any action or actions, or to prefer or order the preferring of any bill or bills of indictment, against any person or persons who shall steal, take, or carry away, or buy or receive, any such goods, chattels, provisions, clothes, linen, furniture, wearing apparel, tools, utensils, materials, or things whatsoever as aforesaid, or any part thereof ; and in every such action and indictment the said goods, chattels, provisions, clothes, linen, wearing apparel, tools, utensils, materials, and things shall be laid or described to be the property of the overseers of the poor for the time being of such parish or parishes, township or townships, hamlet or hamlets, place or places, without stating or specifying the name or names of all or any of such overseers : Provided always that nothing herein contained shall extend to repeal any of the provisions contained in any Act or Acts of Parliament whereby the property of and in any such goods, chattels, furniture, provisions, clothes, linen, wearing apparel, tools, utensils, materials, and things, is or may be vested in any other person or persons jointly with or independent of the overseers of the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places.

Saving as to provisions in local Acts.

Sect. 1.

Note.

A general provision to the same effect as that contained in this section as to laying in the overseers, &c., the property in goods belonging to the parish, or provided for the use of the poor, is contained in the Criminal Law Act, 1826 (7 Geo. 4, c. 64), s. 16, and in the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), s. 4.

Sect. 2.

Overseers, &c., to cause goods, &c., to be marked.

II. The overseers of the poor, or other person or persons who may be appointed for the ordering, regulating, managing, or providing for the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places, jointly with or independent of such overseers of the poor, shall or may and they are hereby authorized and empowered to cause all such goods, chattels, furniture, clothes, linen, wearing apparel, tools, utensils, materials and things, capable of being marked, and from time to time belonging to such overseers, or other person or persons to be marked, stamped, or branded with the word "workhouse," and such other mark or marks as they shall think proper for identifying the parish or parishes, township or townships, hamlet or hamlets, place or places, by which the same shall have been provided; and if any pawnbroker or other person or persons shall knowingly take in pawn, buy, exchange, or receive any goods, chattels, furniture, clothes, linen, wearing apparel, tools, utensils, materials, and things provided for the use of any of the poor who are or shall be received into the workhouse of any parish or parishes, township or townships, hamlet or hamlets, place or places, or to whom the same shall have been given by the overseers of the poor, or other such person or persons as aforesaid appointed as aforesaid, of or for any such parish or parishes, township or townships, hamlet or hamlets, place or places, or any of them, or any of the goods or materials carried into any such workhouse or workhouses to be wrought up, manufactured, or used by the poor there, or any of the goods or furniture of such workhouse or workhouses, or shall receive or buy any of the provisions allotted to or provided for the poor of such workhouse or workhouses, or shall be aiding or assisting therein, or if any person or persons shall cause such mark or stamp, marks or stamps as aforesaid to be obliterated or defaced, every person so offending shall forfeit for every such offence any sum not exceeding the sum of five pounds nor less than one pound, upon conviction thereof, either by the confession of such person or persons, or by the oath of one or more

Penalty on persons receiving into pawn or buying, &c., any property provided for the use of the poor.

or defacing marks.

Sect. 1.

Note.

Although by the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 3, guardians of a union may sell and dispose of parish property, the legal estate in such property is not thereby transferred from the parish officers to the guardians (*Worge* v. *Rolfe*, 11 L. J. M. C. 125; *Doe* d. *Norton* v. *Webster*, 12 A. & E. 442; 9 L. J. Q. B. 337; 4 P. & D. 270), but by sect. 7 of the same Act, guardians may acquire property of their own distinct from that of the parish officers of the parishes forming the union, and penalties are imposed on the destruction or injury of such property by the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 5.

Sect. 2.

See note to sect. 1, *supra*.

Note.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 58, the period of "three calendar months" in this section printed in italics, is altered to "any period not less than seven days and not greater than three months." And by sect. 57 of the same Act, any

credible witness or witnesses, before any one or more of His Majesty's justices of the peace of the county, city, town, riding, or division wherein the offence or offences shall be committed; one moiety of which said penalty shall go to the informer or informers, and the other moiety shall go and be paid to the overseers of the poor of the parish or parishes, township or townships, hamlet or hamlets, place or places, to which such articles or things may belong, for the use of the poor of such parish or parishes, township or townships, hamlet or hamlets, place or places: and in case any person or persons who shall be convicted as aforesaid shall not pay such penalty or penalties upon conviction, then and in such case such justice or justices of the peace shall and may and is and are hereby required to commit such offender or offenders to the common gaol or house of correction, there to remain without bail or mainprize for any space of time not exceeding two calendar months; and if any person or persons shall desert or run away from any workhouse or workhouses, and carry away with him, her or them any clothes, linen, or other goods or things as aforesaid, such person or persons, being thereof lawfully convicted, either by the confession of such party or parties, or by the oath or oaths of one or more credible witness or witnesses, before any justice or justices of the peace, shall by such justice or justices of the peace be forthwith committed to the common gaol or house of correction, there to remain without bail or mainprize for the space of *three calendar months;* and in all cases such mark, stamp, or brand on any such articles or things as aforesaid (being duly authenticated) shall be considered and taken to be sufficient evidence, without further proof, of the right of property in such overseers or other person or persons appointed as aforesaid, as the case may be: Provided always that such mark or stamp as aforesaid shall not at any time be placed on any articles of wearing apparel so as to be publicly visible on the exterior of the same.

Sect. 2.

On non-payment of penalty, offenders to be committed.

Persons absconding from workhouse with any property to be committed.

Mark on articles to be evidence of the right of property.

Mark not to be put on the outside of wearing apparel.

[Sect. 3. *Extending the time for which justices might order relief to be given to poor persons.* Sect. 4. *Limiting the amount of such relief after the expiration of a month:* Repealed by 4 & 5 Will. 4, c. 76, s. 53.]

V. [*Recital: that persons in workhouses sometimes refuse to work and are guilty of drunkenness or misbehaviour, and that the*

Persons refusing to work or guilty

---

person convicted of an offence under this section may be committed to the gaol of the county or place wherein the parish to which he is chargeable is situate; and by the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 8, hard labour may be added to the sentence of imprisonment for the offence of absconding with workhouse property.

Sect. 2. Note.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 58, the period of "twenty-one days" in this section printed in italics is raised to forty-two days on conviction for a second offence; and by

Sect. 5. Note.

Sect. 5.

of drunkenness or misbehaviour in workhouses shall be committed.

laws are insufficient for punishing them.] In case any person or persons maintained in any public workhouse or workhouses established for the relief, maintenance, and employment of the poor shall refuse to work at any work, occupation, or employment suited to his, her, or their age, strength, and capacity, or shall be guilty of drunkenness or other misbehaviour, every such person or persons, being thereof lawfully convicted before any justice or justices of the peace, shall thereupon by such justice or justices of the peace be committed to the common gaol or house of correction, there to remain without bail or mainprize, for any period of time not exceeding *twenty-one days*, and during such time to be kept to hard labour.

Persons having the management of the poor not to be concerned in contracts, &c., whilst in office.

VI. No *churchwarden or overseer of the poor or other* person or persons in whose hands the collection of the rates for the relief of the poor, or the providing for, ordering, management, control, or direction of the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places, shall or may be placed jointly with or independent of such churchwardens and overseers, or any of them, under or by virtue of any Act or Acts of Parliament, shall, either in his own name or in the name of any other person or persons, provide, furnish, or supply for his or their own profit any goods, materials, or provisions for the use of any workhouse or workhouses, or otherwise, for the support and maintenance of the poor in any parish or parishes, township or townships, hamlet or hamlets, place or places for which he or they shall be appointed as such, during the time which he or they shall retain such appointment, nor shall be concerned, directly or indirectly, in furnishing or supplying the same, or in any contract or contracts relating thereto, under pain of forfeiting the sum of one hundred pounds, with full costs of suit, to any person or persons who shall sue for the same by action in any of His Majesty's Courts of Record at Westminster: Provided nevertheless that if it shall happen in any parish or parishes, township or townships, hamlet or hamlets, place or places, that a person or persons competent and willing to undertake the supply of any of the articles or things required for such workhouse or workhouses, or for the use of the poor there, cannot

Penalty.

Exceptions in certain cases.

Sect. 5. Note.

sect. 57 of the same Act, any person convicted of an offence under this section may be committed to the gaol of the county or place wherein the parish to which he is chargeable is situate.

Misbehaviour in workhouses is further dealt with by the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 5, and by the Gen. Cons. Ord., July 24th, 1847, arts. 127—147.

Sect. 6. Note.

As the duty of supplying goods for the use of workhouses in unions is transferred from the overseers of parishes to the guardians of the union, so much of this Act as renders overseers and churchwardens of the poor of any parish comprised in a union liable to a penalty in respect of the furnishing, providing, or supplying of

Sect. 6.

be found within a convenient distance therefrom, other than and except some or one of the churchwardens and overseers of the poor, or other person or persons having the ordering, managing, control, or direction of the poor in such parish or parishes, township or townships, hamlet or hamlets, place or places, then and in every such case it shall and may be lawful to and for any two or more neighbouring justices of the peace (proof thereof having been first duly made before them upon oath, and which oath such justices or any one of them are and is hereby authorized and empowered to administer) by certificate under their hands and seals to permit and suffer any one or more of such churchwardens and overseers, or other such person or persons as aforesaid, to contract and agree for the furnishing and supplying of any articles or things which may be required for such workhouse or workhouses, or otherwise for the use of the poor of such parish or parishes, township or townships, hamlet or hamlets, place or places, during the time which he or they may retain such appointment, any thing herein contained to the contrary notwithstanding; and such certificate shall be entered with the clerk of the peace or town clerk of the county, city, town, or district in which such person or persons shall reside, and a copy thereof left with him, for which entry every such clerk shall receive one shilling and no more; and from that time every person and persons named in any such certificate shall be discharged from any penalty to which he or they would otherwise be liable under this Act for furnishing or supplying any such articles or things as aforesaid; and in case any action or suit for the recovery of any such penalty as aforesaid shall be commenced against any person or persons to whom such certificate shall have been granted as aforesaid it shall and may be lawful to and for such person or persons to plead generally that he or they was or were duly discharged from any liability to such forfeiture by a certificate granted according to the provisions of this Act; and upon due proof being given of such certificate, and of such entry thereof as aforesaid, the jury shall find a verdict for the defendant in such action or suit; *and if the plaintiff or plaintiffs shall become nonsuited, or discontinue his, her, or their action, or if verdict*

Sect. 6. Note.

goods, materials, or provisions for the use of any workhouse, or the support and maintenance of the poor is repealed by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 44.

Double costs were abolished by the Limitation of Actions and Costs Act, 1842 (5 & 6 Vict. c. 97), s. 2.

The penalty imposed by, and the provisions contained in this section, are by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 51, extended and made applicable to every commissioner, assistant commissioner, guardian, treasurer, master of a workhouse or other officer, to be appointed under the provisions of that Act.

The provisions of this section have been holden to extend to the case of a guardian of the poor selling sheep to the master of a

Sect. 6.

shall pass against him, her or them, or if judgment shall be had against him, her or them on demurrer, then the defendant or defendants in such action shall have double costs, and have such and the like remedy for the recovery of the same as any defendant or defendants have or hath for recovering costs of suit in any other cases by law.

[Sect. 7. *Notice of contracts for supplying workhouses to be affixed on church doors:* Repealed by 7 & 8 Vict. c. 101, s. 67.]

Conviction to be drawn up.

Conviction not to be set

VIII. All justices of the peace before whom any person or persons shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up. . . . And such conviction shall be good and effectual in law to all intents and

---

Sect. 6.

Note.

workhouse (who was appointed by the guardians), although such master had contracted to maintain the poor at a certain sum per head (*West* v. *Andrews*, 5 B. & Ald. 328; 1 B. & C. 77). And it is no defence to the action to say that the defendant furnished the goods at a fair market price; for still it is done for his profit (*Pope* v. *Backhouse*, 8 Taunt. 239). It was held, however, that if he supplied goods, but not for profit (*Skinner* v. *Buckee*, 3 B. & C. 6), or if he supplied material for the repair of a workhouse (*Barber* v. *Waite*, 1 A. & E. 514; 3 N. & M. 611; 3 L. J. M. C. 101), or goods to an individual pauper, with his consent, as a portion of the relief ordered to be given him (*Proctor* v. *Mainwaring*, 3 B. & Ald. 145; *Henderson* v. *Sherborne*, 2 M. & W. 236; 7 L. J. M. C. 28), it was not within this section; for the section extended only to cases where the goods were supplied for the use of the poor generally.

Now, however, by 4 & 5 Will. 4, c. 76, s. 77, it shall not be lawful for any person, filling an office concerned in the administration of the laws for the relief of the poor, to furnish or supply on his own profit or on his own account, any goods, materials or provisions ordered to be given in parochial relief, or to furnish or supply any goods, materials or provisions for or in respect of the money ordered to be given in parochial relief, to any person in such parish or union; and every person so offending shall, on conviction before any two justices of the peace, be subject to a penalty of 5*l.*, one half to be paid to the informer, the other half in aid of the poor rates of such parish or union.

A guardian who supplies goods to the master of the workhouse for the workhouse is liable to a penalty, although the master had no authority to order the goods (*Greenhow* v. *Parker*, 31 L. J. M. C. 22; 26 J. P. 24).

A relieving officer purchased goods for a pauper at the shop of a guardian who carried on business in partnership with his son. The son sold the goods without his father's knowledge. *Held* that the father was liable to the penalty (*Davies* v. *Harvey*, L. R. 9 Q. B. 433; 43 L. J. M. C. 121; 30 L. T. (N. S.) 629).

Sect. 8.

Note.

The form of conviction contained in this section is repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).

The decision of justices under this Act may, notwithstanding the provisions of this section, be brought before the High Court for review in matters of law by a case stated under the S. J. Acts, 1857 or 1879 (20 & 21 Vict. c. 43, s. 2; 42 & 43 Vict. c. 49, s. 33).

purposes, and shall not be quashed or set aside or adjudged void or insufficient for want of any other form of words whatever, nor shall the same be removed by *certiorari*, or any other writ or process whatsoever, into any of His Majesty's Courts of Record at Westminster, any law, statute, or usage to the contrary thereof notwithstanding.

Sect. 8. aside for want of form nor removed by *certiorari*, &c.

IX. Provided always, that if any person or persons shall think himself, herself, or themselves aggrieved by the judgment of such justice or justices as aforesaid, such person or persons may appeal to the next general or quarter sessions of the peace. . . .

Appeal to the quarter sessions.

WORKHOUSE ACT, 1816.

56 GEO. III., CHAP. 129.

An Act to repeal certain Provisions in Local Acts for the Maintenance and Management of the Poor.

[1st July, 1816.]

WHEREAS divers local Acts of Parliament have lately passed, containing enactments relative to the maintenance and regulation of the poor, varying the general law with respect to particular districts, parishes, townships, or hamlets; and it is expedient that some of such enactments should be repealed: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that all enactments and provisions contained in any Act or Acts of Parliament since the commencement of the reign of His late Majesty, King George the First, whereby any poor person or persons, other than such as shall actually apply for and receive parochial relief, are compelled or made compellable to go or remain in any house of industry or workhouse; or whereby any poor person or persons may be detained or kept in any house of industry or workhouse, at the discretion of the governors or directors thereof, or of the churchwardens or overseers of the poor of

Certain enactments in local Poor Acts, passed since the commencement of the reign of Geo. 1. repealed.

The latter part of this section, dealing with the recognizances to be entered into by an appellant, and the finality of an appeal, is repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).

Sect. 9. Note.

The words omitted from this section relating to the exemption of parishes, &c., more than ten miles distant from a workhouse from contributing to or taking benefit from such workhouse are repealed by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 31.

Sect. 1. Note.

Sect. 1.

any district, parish, township, or hamlet, after such persons are capable of maintaining themselves; or whereby any poor person or persons may be compelled to remain in any house of industry or workhouse until the charges and expenses to which any district, parish, township, or hamlet may have been put or become liable or chargeable for the maintenance or support of such poor person or persons, or any of his or her family, shall be repaid or reimbursed or satisfied by the earnings or labour of such poor person or persons; or whereby any poor child or children whomsoever is or are rendered liable to be apprenticed to any governor, director, or master of any such house of industry or workhouse; . . . or whereby any directors, governors, guardians, or masters of any such house of industry or workhouse are authorized or empowered to hire out any poor person or persons of full age, or to contract or agree with any person or persons to have and take the profit of the labour of such poor person or persons, shall be wholly and severally and the same are hereby wholly and severally repealed.

Chaining of sane persons in workhouses unlawful.

II. It shall not be lawful for any governor, director, guardian, or master of any house of industry or workhouse on any pretence, to chain, or confine by chains or manacles, any poor person of sane mind.

PARISH APPRENTICES ACT, 1816.

56 GEO. III., CHAP. 139.

An Act to regulate the binding of Parish Apprentices.
[2nd July, 1816.]

[By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 12, "no poor child shall be bound apprentice by the overseers of any parish included in any such union, or subject to a board of guardians under the provisions of 4 & 5 Will. 4, c. 76, but it shall be lawful for the guardians of such union or parish respectively to bind any such poor child to be an apprentice, and in such case the indentures of apprenticeship shall be executed by the said guardians, and shall not need to be allowed, assented to or executed by any justice or justices of the peace, and the guardians shall have all the powers for binding or assigning any such apprentice which are now possessed by overseers." As every parish in England is now either included in a union, or is subject to a board of guardians under 4 & 5 Will. 4, c. 76, or a local Act, a great part of this Act is now inoperative. The mode of apprenticing of poor children is now regulated by the Gen. Cons. Ord., July 24th, 1847, arts. 52—74,

---

Sect. 2. Note.

See the Poor Relief Act, 1814 (54 Geo. 3, c. 170), s. 7, as to the regulation of punishments in workhouses, and the Gen. Cons. Ord., July 24th, 1847, rules 133—142.

and the Gen. Ord., February 15th, 1898. See also the Parish Apprentices Act, 1778 (18 Geo. 3, c. 47); the Parish Apprentices Act, 1792 (32 Geo. 3, c. 57); and the Parish Apprentices Act, 1802 (42 Geo. 3, c. 46).]

[Preamble recited that grievances had arisen from binding poor children apprentices to persons at a distance from the parish to which such poor children belonged, and from apprentices being allowed to serve other persons than those to whom they were apprenticed without a formal assignment.]

Sect. 1.

[Sect. 1. *Child before being bound apprentice by overseers to be taken before justices, who are to inquire into certain matters, and may examine the parents; in what cases justices to make an order that overseers bind the child apprentice: proviso as to employing an apprentice out of the county where bound:* Repealed by 39 & 40 Vict. c. 61, s. 27.]

Indenture to be allowed by two justices of the county into which apprentice is to be bound, as well as by two justices of the county from which he is bound.

II. In all cases where the residence or establishment of business of the person or persons to whom any child shall be bound shall be within a different county or jurisdiction of the peace from that within which the place by the officers whereof such child shall be bound shall be situated, and in all other cases where the justices of the peace for the district or place within which the place by the officers whereof such child shall be bound shall be situated, and who shall sign the allowance of the indenture by which such child shall be bound, shall not have jurisdiction, every indenture by which such child shall be bound shall be allowed, as well by two justices of the peace for the county or district within which the place by the officers of which such child shall be bound shall be situated, as by two justices of the peace for the county or district within which the place shall be situated wherein such child shall be intended to serve: Provided always, that no indenture shall be allowed by any justice of the peace for the county into which such child shall be bound, who shall be engaged in the same business, employment, or manufacture in which the person to whom such child shall be bound is engaged; and notice shall be given to the overseers of the poor of the parish or place in which such child shall be intended to serve an apprenticeship, before any justice of the peace for the county or district within which such parish or place shall be shall allow such indenture; and such notice shall be proved before such justice shall sign such indenture, unless one of such overseers shall attend such justice and admit such notice.

[See note to heading, *supra*.]

Allowance of county justices to be valid in places having exclusive jurisdiction.

III. Provided always, and it is hereby declared, that the allowance of two justices of the peace for the county within which the place in which such child shall be intended to serve an apprenticeship shall be situated shall be valid and effectual, although such place may be situated in a town or liberty within which any other justices of the peace may in other respects have an exclusive jurisdiction.

[See note to heading, *supra*.]

Sect. 4.

Distance to which apprentices may be bound not to be limited to cities which are counties of themselves.

IV. And whereas there are several cities and boroughs which are counties of themselves, and several districts situated without the limits of the county to which such districts respectively belong: Be it enacted, that the distance to which parish apprentices may be bound shall not be construed to be limited to such cities and boroughs being counties, but shall extend to the county in which any such city and borough and any such district, though belonging to another county, shall be locally situated.

[See note to heading, *supra*.]

No settlement shall be gained unless directions of this Act complied with.

V. No settlement shall be gained by any child who shall be bound by the officers of any parish, township, or place, by reason of such apprenticeship, unless such order shall be made and such allowances of such indenture of apprenticeship shall be signed as herein-before directed.

[See note to heading, *supra*.]

Penalty on overseers binding and persons receiving apprentices contrary hereto.

VI. In case any overseer or overseers shall bind an apprentice to any person or persons without having obtained such order and such allowances as herein-before required, and in case any person or persons shall receive any such apprentice as so bound without such order and allowances having been first obtained, the said overseer or overseers and the said person or persons shall each respectively forfeit the sum of ten pounds for each apprentice so bound, to be recovered as the penalties herein-after given are directed to be recovered.

[See note to heading, *supra*.]

Children not to be bound till they have attained nine years.

VII. It shall not be lawful for any parish officers to bind out any child as parish apprentice until such child shall have attained the age of nine years, any thing in any Act or Acts of Parliament to the contrary notwithstanding.

In cases of masters' removal, &c., how apprentices shall be disposed of.

VIII. If any person or persons, to whom any child shall be bound apprentice by the overseers of the poor of any parish or place, shall remove his, her, or their residence or establishment of business out of the same county, or forty miles from the parish or place wherein the same was when such child was bound apprentice, such person or persons shall, at least fourteen days previous to such removal give a written notice thereof to the churchwardens or overseers of the poor of the place where such apprentice shall then reside . . . ; and which churchwardens

Sect. 7. Note.

By the Gen. Cons. Ord., July 24th, 1847, art. 52, no child under the age of nine years, and no child (other than a deaf and dumb child) who cannot read and write his own name, shall be bound apprentice by the guardians.

Sect. 8. Note.

The words omitted from this section are repealed by the S. L. R. Act, 1873.

Sect. 8.

and overseers, and also the master or masters, mistress or mistresses of such apprentice, shall cause such apprentice to appear before two of His Majesty's justices of the peace for the county or district within which such apprentice shall be then serving, who shall inquire whether it may be fit and proper that such apprentice should continue in the service of such person or persons, or be discharged therefrom, or bound or assigned over to any other person or persons, and shall thereupon make order either for the continuance of such apprentice with such person or persons, or for the discharge of such apprentice, or for the binding or assigning of such apprentice to any other person, as to them in their discretion shall seem meet, and, if they shall see fit, shall also require the person or persons so giving notice of removal to pay the amount of the premium received with such apprentice, or such portion of it as to them shall seem meet, for the expense of assigning or binding such apprentice to any other person to be approved by the said justices; and the person or persons to whom such apprentice shall be so bound or assigned shall be subject to the same rules and regulations as the person or persons to whom such apprentice shall be originally bound; and in case any such master or masters, mistress or mistresses shall remove as aforesaid, and shall take any such apprentice to any other place without such order as aforesaid, or shall wilfully abandon and leave any such apprentice without giving such notice as aforesaid, every person so offending shall forfeit the sum of ten pounds for every such apprentice to the churchwardens and overseers of the poor of the parish, township, or place wherein, at the time of such removal or taking, the apprentice shall have been legally settled, for the use of the poor of the same parish, township, or place; provided an information shall be exhibited for such offence within three calendar months next after the commission of the same.

Consent of justices under 32 Geo. 3, c. 57, s. 7, required in case of assigning or discharging apprentices.

IX. [*Recital: that assignments, &c., of apprentices shall be under the control of the justices.*] It shall not be lawful for any master or mistress to put away or transfer any parish apprentice to any other, or in any way to discharge or dismiss from his or her service any parish apprentice, without such consent of justices as is directed in an Act passed in the thirty-second year of the reign of His present Majesty, intituled "An Act for the further regulation of Parish Apprentices," and no settlement shall be gained by any service of such apprentice, after such putting away or transfer, unless such service shall have been performed under the sanction of such consent as aforesaid.

Sect. 9.

Note.

Settlement by apprenticeship was created by the Poor Relief Act, 1691 (3 Wm. & M. c. 11), s. 7.

The assent of justices to the assignment of apprentices is required by 32 Geo. 3, c. 57, s. 7; and by s. 8 of that Act justices were empowered to discharge apprentices whose masters could not employ or maintain them. See note to that section.

Sect. 10.

Penalty on assigning or discharging apprentices without the consent of justices 10*l*.

X. Any person or persons who shall put away or transfer any parish apprentice to another, or who shall in any way discharge or dismiss from his or her service any parish apprentice, without such consent as aforesaid, shall forfeit a sum not exceeding ten pounds for every apprentice so transferred.

Indentures not to be valid unless approved by two justices.

XI. [*Recital of* 43 Eliz. c. 2, *and that the premium was frequently clandestinely provided by parish officers to enable them to bind out poor children.*] No indenture of apprenticeship, by reason of which any expense whatever shall at any time be incurred by the public parochial funds, shall be valid and effectual, unless approved of by two justices of the peace, under their hands and seals, according to the provisions of the said Act and of this Act.

[See note to heading, *supra*.]

Sect. 9.

Note.

In the case of parish apprentices, the delivering up of the indenture to the apprentice will be no discharge of the apprentice, nor in any manner affect the apprenticeship (*Rex* v. *Sandford*, 1 T. R. 281; *Rex* v. *Anstey*, Burr. S. C. 441; but see *Rex* v. *Notton*, Burr. S. C. 629), if the apprentice be then under age. So, where the indenture was delivered up to the father of the apprentice, it was holden that the latter was not thereby discharged (*Rex* v. *Langham*, Cald. 126). Nor will any agreement between the master and the apprentice operate as a discharge of the apprentice (*Rex* v. *Offerton*, Burr. S. C. 802). But after the apprentice comes of age, he and his master may agree to cancel the indentures; and if it be thereupon delivered up to the apprentice it will have the effect of putting an end to the apprenticeship (*Rex* v. *Ecclesall*, Burr. S. C. 562; 1 W. Bl. 592).

The sanction required by this section extends not only to cases of assignment but also to cases of temporary permission by the master to the apprentice to work for another. Therefore, where the master of a parish apprentice, after a service of four years with him in the parish of A. under the indenture, having no longer employment for the apprentice agreed with a person in the parish of B. that he should work for him, such person paying the master 5*s*. a week out of the apprentice's earnings, and the apprentice worked for such person accordingly, and resided more than forty days in B.: the court held that this was a putting away of the apprentice, within the meaning of the above section, and that the apprentice gained no settlement in B. (*Reg.* v. *Wainfleet, All Saints*, 11 A. & E. 656; 9 L. J. M. C. 31).

A boy was bound as a parish apprentice to a farmer in Stanton Long, and served a few months, when the farmer proposed to him to go to drive the plough at a farm in another parish in the occupation of Mrs. Corser, the farmer's sister; the boy consented, hired with Mrs. Corser for a year, and served her for that and the three following years: the court held that this was a putting away of the apprentice, within the above section, and

Sect. 12.

Penalties may be recovered by information, &c.

XII. All penalties and forfeitures hereby imposed for any offence against this Act shall and may be recovered by information before any two justices of the peace of the county or district where such offence shall be committed.

Justices may dispose of penalties.

XIII. It shall and may be lawful to and for the justices before whom any such penalty shall be recovered to direct such penalty, after deducting the necessary costs and charges attending any information and the proceedings thereon to be paid, applied, and distributed, either to the person or persons giving information of the offence for which such penalty shall be incurred, or to the overseer of the poor of the parish or township in which such offence shall have been committed, or by the officers whereof such apprentice shall have been bound, for the use of the poor of such parish or township, or in the binding of the apprentice respecting whom such offence shall be committed to any other person, or to be distributed and applied for any one or more of such purposes, as to such justices shall seem meet.

[Sect. 14. *Recovery of Penalties;* Sect. 15. *Form of conviction;* Sect. 16. *Imprisonment if penalty not paid:* Repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).]

Power of appeal.

XVII. Any person or persons, who shall be dissatisfied with any act done by any justice or justices of the peace in the execution of this Act may appeal against the same to any court or general or quarter sessions [*to be holden for the county within which such act shall have been done within three calendar months after the fact so complained of, upon giving notice in writing to such justice or justices, and also to the person or persons who shall be interested in such appeal, within twenty-one days next after the act so appealed against shall have taken place, and in case such appeal shall be against any conviction, entering into a recognizance, with two sufficient sureties, before any justice of the peace of the county or district within which such conviction shall have taken place, to appear at such general or quarter sessions to abide the judgment of the court upon such appeal, and to pay the costs which may be awarded thereon; and it shall and may be lawful to and for the justices at such sessions to hear and determine the matter of such appeal, and to award costs therein, as they in their discretion shall think fit*]; and all such appeals shall be to the sessions of the county within which the act appealed against shall have taken place, and not to any district or liberty within the same.

Sect. 9. Note.

by the express words of that section no settlement was gained by the subsequent service with Mrs. Corser (*Rex* v. *Shipton*, 8 B. & C. 88).

Sect. 17. Note.

The words within brackets are repealed so far as they relate to an appeal against a conviction or order of a court of summary jurisdiction by the S. J. Act, 1884 (47 & 48 Vict. c. 43).

Sect. 18.

Provisions as to overseers extended to churchwardens, &c.

XVIII. The provisions and penalties herein contained respecting overseers of the poor shall be deemed to extend to all churchwardens having the power and authority of overseers of the poor; and all the provisions herein mentioned and contained respecting any parish or place shall extend to any incorporated or other district for the maintenance of the poor; and the officers of any such district, having power to bind apprentices shall be subject to all the rules, regulations, and penalties herein mentioned and contained respecting overseers of the poor.

DISTRESS (COSTS) ACT, 1817.

57 GEO. III., CHAP. 93.

An Act to regulate the Costs of Distresses levied for Payment of Small Rents. [10th July, 1817.]

[The provisions of this Act are by the Distress (Costs) Act, 1827 (7 & 8 Geo. 4, c. 17), applied to any distress made for poor rates where the sum due in respect of such rates does not exceed 20*l*.]

[Preamble recited that persons acting as brokers and distraining had of late made excessive charges to the oppression of poor tenants.]

No person making any distress for rent, where the sum due shall not exceed 20*l*. to take other charges than mentioned in the schedule annexed;

[I.] No person whatsoever making any distress for rent, where the sum demanded and due shall not exceed the sum of twenty pounds for and in respect of such rent, nor any person whatsoever employed in any manner in making such distress or doing any act whatsoever in the course of such distress, or for carrying the same into effect, shall have, take, or receive, out of the produce of the goods or chattels distrained upon and sold, or from the tenant distrained on, or from the landlord, or from any other person whatsoever, any other or more costs and charges for and in respect of such distress, or any matter or thing done therein, than such as are fixed and set forth in the schedule hereunto annexed, and appropriated to each act which

nor to charge for any act not really done.

shall have been done in the course of such distress; and no person or persons whatsoever shall make any charge whatsoever for any act, matter, or thing mentioned in the said schedule, unless such act shall have been really done.

Sect. 18. Note.

As to churchwardens in rural parishes, see now the Local Government Act, 1884 (56 & 57 Vict. c. 73), s. 5 (2).

Sect. 1. Note.

This section is now subject to the provisions of the Law of Distress Amendment Act, 1888 (51 & 52 Vict. c. 21), which exempts certain chattels from distress, and by sect. 7 enacts that no person shall act as a bailiff to levy any distress for rent unless certified by a county court judge.

Sect. 2.

Party aggrieved by any such practice may apply to a justice of the peace.

II. If any person or persons whatsoever shall in any manner levy, take, or receive from any person or persons whatsoever, or retain or take from the produce of any goods sold for the payment of such rent, any other or greater costs and charges than are mentioned and set down in the said schedule, or make any charge whatsoever for any act, matter or thing mentioned in the said schedule, and not really done, it shall be lawful for the party or parties aggrieved by such practices to apply to any one justice of the peace for the county, city, town, and acting for the division where such distress shall have been made or in any manner proceeded in, for the redress of his, her, or their grievance so occasioned; whereupon such justice shall summon the person or persons complained of to appear before him at a reasonable time to be fixed in such summons; and such justice shall examine into the matter of such complaint by all legal ways and means, and also hear in like manner the defence of the person or persons complained of; and if it shall appear to such justice that the person or persons complained of shall have levied, taken, received, or had other and greater costs and charges than are mentioned or fixed in the schedule hereunto annexed, or made any charge for any matter or thing mentioned in the said schedule, such act, matter, or thing not having been really done, such justice shall order and adjudge treble the amount of the monies so unlawfully taken to be paid by the person or persons so having acted to the party or parties who shall thus have preferred his, her, or their complaint thereof, together with full costs . . .

Justice may adjudge treble the amount of the monies unlawfully taken to be paid, with costs; which may be levied by distress.

The latter part of this section is repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).

[Sect. 3. *Procedure before justices:* Repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).]

No judgment to be given against any landlord unless he personally levies the distress.

Parties not to be barred of other legal remedies.

IV. . . . Provided always, that nothing herein contained shall empower such justice to make any order or judgment against the landlord for whose benefit any such distress shall have been made, unless such landlord shall have personally levied such distress: Provided always, that no person or persons who shall be aggrieved by any distress for rent, or by any proceedings had in the course thereof, or by any costs and charges levied upon them in respect of the same, shall be barred from any legal or other suit or remedy which he, she, or they might have had before the passing of this Act, excepting so far as any complaint to be preferred by virtue of this Act shall have been determined by the order and judgment of the justice before

---

Sect. 4. Note.

The early part of this section authorizing the justice, if the complaint is unfounded, to give costs to the party complained against, is repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).

Sect. 4.

whom it shall have been heard and determined; and which order and judgment shall and may be given in evidence, under the plea of the general issue, in all cases where the matter of such complaint shall be made the subject of any action.

[Sect. 5. *Signature of justice proof of judgment:* Repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).]

Brokers in all cases to give copies of their charges to the persons distrained.

VI. Every broker or other person who shall make and levy any distress whatsoever shall give a copy of his charges, and of all the costs and charges of any distress whatsoever, signed by him, to the person or persons on whose goods and chattels any distress shall be levied, although the amount of the rent demanded shall exceed the sum of twenty pounds.

Printed copy of Act to be hung up in sessions house.

VII. A fair printed copy of this Act shall be hung up in some convenient place in such halls or room where the justices of each and every county in England and Wales shall hold either their quarter or other sessions.

SCHEDULE REFERRED TO IN THIS ACT.

[Forms of order and judgment repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).]

These forms were superseded so far as they were applicable to poor rates by the forms in the schedule to the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14).

Schedule of the Limitation of Costs and Charges on Distresses for Small Rents.

	£	s.	d.
Levying distress	0	3	0
Man in possession, per day	0	2	6
Appraisement, whether by one broker or more, sixpence in the pound on the value of the goods. Stamp, the lawful amount thereof.			
All expenses of advertisements, if any such . .	0	10	0
Catalogues, sale, and commission, and delivery of goods, one shilling in the pound on the net produce of the sale.			

Schedule Note.

By the Law of Distress Amendment Act, 1888 (51 & 52 Vict. c. 21), s. 8, the Lord Chancellor is empowered to make and alter rules (*inter alia*) for regulating the fees, charges and expenses incidental to distress. By rules issued in exercise of this power dated August 31st, 1888, the following scale of charges is authorized, which supersedes the scale in this schedule in cases of distress for rent:—

SCALE II.

Distress for rent where the sum demanded and due shall not exceed 20*l*.

For levying distress, 3*s*.

VESTRIES ACT, 1818.

58 GEO. III., CHAP. 69.*

An Act for the regulation of Parish Vestries. [3rd June, 1818.]

[Preamble recited that it was expedient to regulate the manner of holding vestries and the right of voting therein.]

Three days' notice to be given of vestries.

I. No vestry or meeting of the inhabitants in vestry of or for any parish shall be holden, until public notice shall have been given of such vestry, and of the place and hour of holding the same, and the special purpose thereof, three days at the least before the day to be appointed for holding such vestry, [*by the publication of such notice in the parish church or chapel on some Sunday during or immediately after divine service, and*] by affixing the same, fairly written or printed, on the principal door of such church or chapel.

* Sects. 1, 2, 3, and 4 of this Act are repealed so far as they relate to parish meetings and parish councils under the Local Government Act, 1894 (56 & 57 Vict. c. 73), by sect. 89 of that Act.

Schedule.

For man in possession, 4*s.* 6*d.* per day; to provide his own board in every case.

Note.

For appraisement, on the tenant's written request, whether by one broker or more, 6*d.* in the pound on the value as appraised, in addition to the amount for the stamp.

For all expenses of advertisements, if any, 10*s.*

Catalogues, sale and commission, and delivery, 1*s.* in the pound on the net produce of the sale.

For removal at tenant's request, the reasonable expenses (subject to rule 17 as to taxation) attending such removal.

Sect. 1.

Note.

The words in italics are repealed by the Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45), s. 1, and by sect. 2 of that Act notices which had hitherto been given in the church or chapel of any place must be affixed on or near to the doors of all the churches and chapels within such parish or place previous to the commencement of divine service. By sect. 3 such notices must be signed by the rector, vicar or curate of the parish, or by a churchwarden or overseer. (See notes to that Act.)

Metropolitan vestries were convened in accordance with the provisions of 19 & 20 Vict. c. 112, s. 9, by sending a notice signed by the vestry clerk to each vestryman, and by affixing the notice to the door of the building where the meeting was to be held. Such vestries have, however, now ceased to exist, and their civil powers are transferred to the London Borough Councils by the London Government Act, 1899 (63 & 64 Vict. c. 14), s. 4.

If a select vestry consists of a definite number of vestrymen, every member must be duly summoned (*Dobson* v. *Fussey*, 5 M. & P.

Sect. 1.

Note.

112; 7 Bing. 305); and a majority of the whole number must be present (*Blackett* v. *Blizzard*, 9 B. & C. 851).

This section does not apply to parishes created under the Church Building Acts for ecclesiastical purposes only and not separately maintaining their own poor (*Reg.* v. *Barrow*, L. R. 4 Q. B. 577; 10 B. & S. 674; 20 L. T. (N. S.) 760; 17 W. R. 928). And see sect. 7, *infra*.

The form of the notice convening a vestry meeting should not be critically examined, and a reasonable construction should be placed upon its contents (*Rand* v. *Green*, 9 C. B. (N. S.) 315; 30 L. J. C. P. 80; 6 Jur. (N. S.) 303; *Reg.* v. *Powell*, 37 J. P. 711).

The vicar and churchwardens of a parish, or other person duly summoning a vestry meeting, are not bound to insert in the notice paper notice of a motion by a ratepayer for changing the hours for holding meetings of the vestry in the parish, inasmuch as one meeting of the vestry has no power to fix the hour for any subsequent meeting (*Reg.* v. *Tottenham*, 4 Q. B. D. 367; 43 L. T. (N. S.) 560; 43 J. P. 543). And the general rule is that the acts of one vestry are not absolutely binding on a succeeding vestry, and may be confirmed or rescinded by such succeeding vestry, but the confirmation by the succeeding vestry is not necessary to make the acts of the preceding one valid (*Mawley* v. *Barbet*, 2 Esp. 687, *per* Lord Kenyon; and see *Jacquet* v. *Lewis*, 8 Sim. 480; 1 Jur. 511).

It is essential that the special matter intended to be discussed at the meeting which is being called should be stated in the notice (*Smith* v. *Deighton*, 8 Moo. P. C. 179), or at all events, if not specifically stated, it should be consequent on something that is stated (*Blunt* v. *Harwood*, 8 A. & E. 610; 7 L. J. M. C. 107).

A notice of a vestry meeting for the election of churchwardens which stated that if a poll were demanded it would be held at the town hall was held to be good, and it was also held that the vicar as chairman might at the meeting, upon a poll being demanded, adjourn the election to the town hall (*Rex* v. *Archdeacon of Chester*, 1 A. & E. 342).

A vestry meeting held by adjournment is considered part of the original meeting and no fresh notice of the business to be done which is adjourned from the former meeting is necessary (*Scadding* v. *Lorant*, 3 H. L. C. 418; 15 Jur. (N. S.) 935, affirming 13 Q. B. 706; *Kerr* v. *Wilkie*, 24 J. P. 211).

A notice was affixed to the church door on Sunday appointing a vestry meeting to be held on the succeeding Wednesday for the nomination of parish officers. A vestry was held, and two persons were elected as surveyors of the highways. *Held* that the election was void, as notice of the vestry had not been given three days at least before the vestry was held, as required by this section (*Reg.* v. *Best*, 2 C. B. 90; 16 L. J. M. C. 338; 11 Jur. 489; 2 N. S. C. 655).

Notice was given on Friday of a vestry meeting to elect churchwardens on the following Tuesday. The meeting was held and two churchwardens elected, but in consequence of doubts as to the propriety of the notice, another notice was given on the next Sunday calling a vestry meeting for the same purpose on the following Thursday. The second meeting was held, and the same churchwardens were elected. Upon a rule for a *mandamus* to elect churchwardens on the ground that both elections were invalid, held that one of the two was at all events valid (*Reg.* v. *St. Faith*, 25 L. J. Q. B. 168; 2 Jur. (N. S.) 212).

Sect. 2.

In the absence of the rector, &c., a chairman of the vestry shall be appointed by the meeting.

Chairman to have a casting vote.

Minutes to be entered and signed.

II. In case the rector or vicar or perpetual curate shall not be present, the persons so assembled in pursuance of such notice shall forthwith nominate and appoint by plurality of votes, to be ascertained as herein-after is directed, one of the inhabitants of such parish to be the chairman of and preside in every such vestry: and in all cases of equality of votes upon any question arising therein the chairman shall (in addition to such vote or votes as he may by virtue of this Act be entitled to give in right of his assessment) have the casting vote; and minutes of the proceedings and resolutions of every vestry shall be fairly and distinctly entered in a book (to be provided for that purpose by the churchwardens and overseers of the poor), and shall be signed by the chairman, and by such other of the inhabitants present as shall think proper to sign the same.

Inhabitants to have from one to six votes according to rateable value of their property.

III. In all such vestries every inhabitant present who shall, by the last rate which shall have been made for the relief of the poor, have been assessed and charged upon or in respect of any annual rent, profit, or value not amounting to fifty pounds, shall have and be entitled to give one vote and no more; and every

---

Sect. 2.

Note.

If the Vestries Act, 1850 (13 & 14 Vict. c. 57), be in force in the parish, it is the duty of the vestry clerk under sect. 7 of that Act to enter the minutes.

A vestry clerk cannot refuse to produce the vestry book kept under this section on the ground that it may criminate him (*Bradshaw* v. *Murphy*, 7 C. & P. 612).

The minister of the parish, if present, has a right *ex officio* to preside at vestry meetings (*Wilson* v. *Macmath*, 3 B. & Ald. 241; 3 Phil. Eccl. Rep. 87); but his absence does not invalidate the meeting (*Mawley* v. *Barbet*, 2 Esp. 687; *Reg.* v. *Brain*, 3 B. & Ad. 614). In metropolitan vestries the right of the minister to be chairman is abolished by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 31 (1).

The chairman, and not the vestry, has the power of adjourning the meeting for the purpose of taking a poll (*Reg.* v. *D'Oyly*, 12 A. & E. 139; 4 P. & D. 52; 9 L. J. M. C. 113; 4 Jur. 1056; but *contra*, *Stoughton* v. *Reynolds*, 1 Str. 1045).

The mere declaration of the chairman on a show of hands that one or the other party has a majority on a resolution is not conclusive; he is bound on requisition from either side to take steps to ascertain the numbers voting on both sides (*Reg.* v. *St. Pancras*, 11 A. & E. 15).

If a vestry by show of hands resolve upon a matter *ultra vires* the vestry, the court will not grant a *mandamus* to compel a poll to be taken on the motion (*Rex* v. *St. Saviour's, Southwark*, 1 A. & E. 380; 3 N. & M. 879).

Sect. 3.

Note.

By the Vestries Act, 1819 (59 Geo. 3, c. 85), s. 1, persons rated to the poor though not inhabitants, and by sect. 2, the clerk or agent of a corporation, &c., may vote in vestry according to the value of the premises rated.

By the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), ss. 7, 19, payment of rates by an owner shall be deemed

Sect. 3.

inhabitant there present, who shall in such last rate have been assessed or charged upon or in respect of any annual rent or rents, profit or value, amounting to fifty pounds or upwards (whether in one or in more than one sum or charge), shall have and be entitled to give one vote for every twenty-five pounds of annual rent, profit and value, upon or in respect of which he shall have been assessed or charged in such last rate, so nevertheless that no inhabitant shall be entitled to give more than six votes; and in cases where two or more of the inhabitants present shall be jointly rated, each of them shall be entitled to vote according to the proportion and amount which shall be borne by him of the joint charge; and where one only of the persons jointly rated shall attend, he shall be entitled to vote according to and in respect of the whole of the joint charge.

Sect. 3. Note.

to be payment by the occupier for the purpose of every qualification or franchise which, as regards rating, depends upon the payment of the poor rate. "However the rates are paid in form, in substance they are always paid by the occupier" (*per* Stirling, J., in *Att.-Gen.* v. *Croydon*, 42 Ch. D. 178; 61 L. T. p. 294; 53 J. P. 726). And it would appear that an owner who pays the rates instead of the occupier, is not thereby entitled to vote in the vestry (*Mogg* v. *Clark*, 16 Q. B. D. 79; 53 L. T. 890; 53 J. P. 342).

Where a person is assessed to a poor rate in respect of his own property, and is also assessed as executor of a deceased person in respect of the property of the deceased, he is entitled to vote in respect of the cumulative value of the respective properties (*Reg.* v. *Kirby*, 1 B. & S. 647; 31 L. J. Q. B. 3; 5 L. T. (N. S.) 280; 10 W. R. 13; 26 J. P. 196). But a person entitled to vote in two characters cannot exercise his rights separately; he must combine his qualifications and vote according to the aggregate amount at which he is assessed (*Lamb* v. *Grieves*, 8 Jur. (N. S.) 288; 26 J. P. 327).

Show of hands.

The common law mode of deciding any matter at a meeting is by show of hands (*Faulkner* v. *Elger*, 4 B. & C., p. 455); and notwithstanding the provisions of this Act, any matter may be decided in a vestry by a show of hands unless a poll is demanded (*Reg.* v. *D'Oyly*, 12 A. & E., p. 158). But it is no objection to the proceedings that the chairman directs a poll without first taking a show of hands, although a show of hands is demanded, and a poll is not demanded (*Reg.* v. *Birmingham*, 7 A. & E. 254).

If votes are taken by show of hands, each person has only one vote, however many votes he may be entitled to on a poll (*Campbell* v. *Maund*, 5 A. & E. 865; 1 N. & P. 751; and see *Re Horbury Coal Co.*, 11 Ch. D. 109; 48 L. J. Ch. 341; 40 L. T. 353; 27 W. R. 433; and *Re Bidwell Brothers*, [1893] 1 Ch. 603; 68 L. J. Ch. 352).

And in some cases, as in the execution of a charitable trust under the terms of a deed, the votes of the vestry, even upon a poll being taken, may and should be taken *per capita* and not under this Act (*Att.-Gen.* v. *Wilkinson*, 7 Moore, 817; 3 Brod. & B. 266).

If the voting is taken by a show of hands, the chairman is bound, on being so requested, to take steps to ascertain and declare the numbers voting on either side (*Reg.* v. *St. Pancras*, 11 A. & E. 15).

Sect. 3.

Note.

Every vestryman present is entitled to demand a poll after the show of hands has been taken, and the chairman is bound to grant it; if the demand is not complied with, the proceeding of the vestry will be void. This is a common law right, and is declared in numerous cases (see *White* v. *Steele*, 12 C. B. (N. S.) 383; 31 L. J. C. P. 265; 8 Jur. (N. S.) 1177; 6 L. T. (N. S.) 686; *Reg.* v. *How*, 32 L. J. M. C. 53; 9 L. T. (N. S.) 385; 27 J. P. 773; *Reg.* v. *Walters*, 24 J. P. 421). Poll.

A demand for a poll at a vestry meeting should be made immediately after the declaration of a show of hands, and before other business has been proceeded with, otherwise it will be too late (*Reg.* v. *Thomas*, 11 Q. B. D. 282; 52 L. J. Q. B. 671; 47 J. P. 792).

If no poll be taken after it has been duly demanded, the proceeding of the vestry will be void (*Reg.* v. *Cooper*, L. R. 5 Q. B. 457; 39 L. J. Q. B. 273).

If a poll of the whole parish is demanded after a show of hands at a vestry meeting, the votes are to be taken of those present at the meeting; but all qualified inhabitants are entitled (whether they were present or not at the show of hands) to be admitted into the vestry room and vote during the poll, although those present at the time of granting the poll may have resolved that the poll shall be confined to those then present. The court will not, however, interfere by *mandamus* unless it is shown that some qualified person desirous of voting was excluded from doing so (*Reg.* v. *St. Mary, Lambeth*, 8 A. & E. 356; 2 N. & P. 416; and see *Reg.* v. *Goole*, 4 L. T. (N. S.) 322; 25 J. P. 308).

In a subsequent case it was held that when a poll had been demanded, and it was resolved without objection that it should be taken only of those then present, such polling was perfectly legal, and a subsequent demand, after the poll so taken had been declared, that a poll of all the ratepayers in the parish should be taken was illegal (*Reg.* v. *Hillingdon*, 18 Q. B. 718).

If a poll be duly demanded, then—"in the absence of other business the poll should be taken immediately; if time does not allow of that, there must be an adjournment" (*Reg.* v. *D'Oyly*, 12 A. & E. 139, *per* Lord Denman, at p. 159); and the correct proceeding appears to be indicated by the statement that the meeting should be adjourned for the purpose of taking a poll "if necessary or convenient" (*Re Egham Burial Board*, 29 L. T. 343; 3 Jur. (N. S.) 956; and see *Reg.* v. *Hedger*, 12 A. & E. 139; 4 P. & D. 61). Adjournment for poll.

Inhabitants not present at the original meeting may vote at an adjourned meeting at which a poll is taken (*Griffin* v. *Ellis*, 4 Jur. 409); and the poll should be kept open long enough to allow all qualified inhabitants who wish to vote to be able conveniently to do so (*Baker* v. *Wood*, 1 Curt. 507; *Campbell* v. *Maund*, 5 A. & E. 865). But if a convenient time and place are appointed for taking the poll, it is no ground for a *mandamus* to take a second poll, that many voters who waited till nearly the close of the poll were prevented by the crowded state of the polling place from giving their votes (*Reg.* v. *Sutton*, 11 L. T. (N. S.) 487; 13 W. R. 187; 29 J. P. 56). And *semble*, where the time for closing the poll has been publicly announced by the chairman of the vestry, he has no power to defer it (*Ib.*). A local disturbance is not a good ground for closing a poll before the time fixed (*Reg.* v. *Graham*, 9 W. R. 738; 25 J. P. 437). Keeping poll open.

It is within the power of the chairman to decide at the time as to the validity of votes tendered at a poll; or he may adjourn the poll for a scrutiny (*Reg.* v. *Hammersmith, Vicar of*, 3 B. & S. 504 n.; 19 Validity of votes.

Sect. 4.

Inhabitants coming into a parish since the last rate may vote.

IV. Provided, that when any person shall have become an inhabitant of any parish, or become liable to be rated therein, since the making of the last rate for the relief of the poor thereof, he shall be entitled to vote for and in respect of the lands, tenements, and property for which he shall have become liable to be rated and shall consent to be rated, in like manner as if he should have been actually rated for the same.

[Sect. 5. *Inhabitants refusing payment of poor rate excluded from vestries:* Repealed by the S. L. R. Act, 1873, being replaced by 59 Geo. 3, c. 85, s. 3.]

Vestry books, &c., to be kept as vestry shall direct.

VI. As well the books hereby directed to be provided and kept for the entry of the proceedings of vestries as all former

---

Sect. 3.

Note.

L. T. 203; 16 J. P. 632). Where votes are rejected on the ground that the persons claiming are not entitled to vote, the court will not interfere by *mandamus* to convene a vestry and take another poll, even if the rejection was improper, unless it is shown that the result of the poll was affected thereby (*Ex p. Mawby*, 3 E. & B. 718; 18 Jur. 906; S. C. *Ex p. Joyce*, 23 L. J. M. C. 153).

Ballot.

In ordinary cases voting by ballot at a poll of the vestry is illegal (*Faulkner* v. *Elger*, 4 B. & C. 449), though it may not be so if the parishioners decide to vote by ballot on the election of an incumbent (*Shaw* v. *Thompson*, 3 Ch. D. 233; 45 L. J. Ch. 827; 34 L. T. (N. S.) 721).

Amendments.

At a poll of the vestry the original proposition and an amendment inconsistent with it may be put to the vote, and affirmative and negative votes taken upon each (*Elt* v. *St. Mary's, Islington*, 1 Kay, 449; *Reg.* v. *Surrey JJ.* [1863] 32 L. J. M. C. 153; 7 L. T. (N. S.) 822; 27 J. P. 709). But a mere negative of the original proposition need not, and should not, be put separately to the vote (*Reg.* v. *Roberts*, 3 B. & S. 495; 32 L. J. M. C. 153).

Majority.

Where by a local Act the management of the affairs of a parish was confided to a select vestry, consisting of an indefinite body, and it was provided that the vestry at their meetings, "or the major part of such of them as shall be assembled at such meetings," might do whatever could be done by an ordinary vestry, it was held that the majority of those present must concur to pass a valid resolution, and that a resolution carried by a majority of those voting, but not by a majority of those present, was ineffectual (*Reg.* v. *Christ Church, Middlesex*, 7 E. & B. 409; 3 Jur. (N. S.) 1074; 27 L. J. M. C. 23; S. P. *Re Eynshaw*, 12 Q. B. 398 n.; 18 L. J. Q. B. 210; 3 N. S. C. 507).

Sect. 4.

Note.

By the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 16, provision is made for entering in the rate-book persons coming into occupation of premises during the currency of a rate.

Sect. 6.

Note.

By the Vestries Act, 1850 (13 & 14 Vict. c. 57), s. 7, it is the duty of the vestry clerk in parishes where that Act is in force to keep the vestry books and parish deeds and documents, &c.

By the Parochial Offices Act, 1861 (24 & 25 Vict. c. 125), s. 3, in

Sect. 6.

vestry books, and all rates and assessments, accounts and vouchers of the churchwardens, overseers of the poor, and surveyors of the highways, and other parish officers and all certificates, orders of courts and of justices, and other parish books, documents, writings, and public papers of every parish, except the registry of marriages, baptisms, and burials, shall be kept by such person and persons, and deposited in such place and manner, as the inhabitants in vestry assembled shall direct; and if any person, in whose hands or custody any such book, rate, assessment, account, voucher, certificate, order, document, writing, or paper shall be, shall wilfully or negligently destroy, obliterate, or injure the same or suffer the same to be destroyed, obliterated, or injured, or shall, after reasonable notice and demand, refuse or neglect to deliver the same to such person or persons, or to deposit the same in such place, as shall by the order of any such vestry be directed, every person so offending and being lawfully convicted thereof, on his own confession, or on the oath of one or more credible witness or witnesses, by and before two of His Majesty's justices of the peace, upon complaint thereof to them made, shall for every such offence forfeit and pay such sum, not

Penalty on injuring or detaining such books, &c.

Sect. 6.

populous parishes the overseers may provide depositories for parish documents.

Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 17(8), with the exception of registers of baptisms, marriages and burials, and books and documents relating wholly or in part to Church affairs or ecclesiastical charities, all parish documents or documents directed by law to be kept with parish documents, may, in rural parishes, be deposited in such custody as the parish council may direct.

Ratepayers are allowed to inspect and obtain copies of or make extracts from ratebooks by the Poor Rate Act, 1743 (17 Geo. 2, c. 3), s. 2, the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 13, and the Parochial Assessment Act, 1836 (6 & 7 Will. 4, c. 96), s. 5. By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32, the auditor may certify parish books, documents, &c., to be due from parish officers, and the same must be delivered over to the persons entitled to receive them.

A collector of poor rates is entitled to have the rate-books delivered into his custody by the overseers temporarily, for the purpose of collecting the rates (*Reg.* v. *Christchurch*, 27 L. J. M. C. 23; 21 J. P. 533).

When the overseers of a parish have expressed their intention of collecting the rates themselves, but the parish council have by resolution appointed an assistant overseer, the court will grant a *mandamus* to the overseers to deliver to the assistant overseer the rate-books and all other books in their custody as overseers, for the purpose of enabling him to perform the duties of his office (*Reg.* v. *Powell*, [1899] 1 Q. B. 396; 63 J. P. 84).

The poorhouse of a union has been considered not an improper repository for the documents of any parish within the union, so as to make them admissible in evidence as being produced from "proper custody" (*Slater* v. *Hodgson*, 9 Q. B. 727; 2 Sess. Cas. 488).

Sect. 7.

Recovery and application of penalty.

exceeding fifty pounds nor less than forty shillings, as shall by such justices be adjudged and determined; and the same shall be recovered and levied by warrant of such justice, in such manner and by such ways and means as poor's rates in arrear are by law to be recovered and levied, and shall be paid to the overseers of the poor of the parish against which the offence shall be committed, or to some of them, and be applied for and towards the relief of the poor thereof: Provided nevertheless, that every person who shall unlawfully retain in his custody, or shall refuse to deliver to any person or persons authorized to receive the same, or who shall obliterate, destroy, or injure, or suffer to be obliterated, destroyed, or injured, any book, rate, assessment, account, voucher, certificate, order, document, writing or paper, belonging to any parish, or to the churchwardens, overseers of the poor, or surveyors of the highways thereof, may in every such case be proceeded against in any of His Majesty's courts, civilly or criminally, in like manner as if this Act had not been made.

This Act not to affect other proceedings in respect of such offences.

Provisions in relation to parishes shall extend to townships, &c.

VII. Provided always, that all provisions, authorities, and directions in this Act contained in relation to parishes shall extend and be construed to extend to all townships, vills, and places having separate overseers of the poor, and maintaining their poor separately; and that all the directions and regulations herein contained in regard to vestries shall extend and be applied to all meetings which may by law be holden of the inhabitants of any parish, township, vill, or place, for any of the purposes in this Act expressed; and that the notices by this Act required to be given of every vestry may, in places in which there is or shall be no parish church or chapel, or where there shall not be divine service in such church or chapel, be given and published in such manner as notices of the like nature shall have been there usually given and published, or as shall be most effectual for communicating the same to the inhabitants of every such parish, township, vill, or place respectively.

Manner of giving notice of vestries where there is no parish church, &c.

This Act not to alter the time for holding vestries, where specially prescribed; nor to affect vestries held under special Acts, &c.

VIII. Provided also, that nothing in this Act contained shall extend or be construed to extend to alter the time of holding any vestry, parish, or town meeting, which is by the authority of any Act required to be holden on any certain day, or within any certain time in such Act prescribed and directed; nor shall any thing in this Act contained extend to take away, lessen, prejudice, or affect the powers of any vestry or meeting holden in any parish, township, or place, by virtue of any special Act

---

Sect. 7.

Note.

As sect. 1 of this Act does not apply to vestries of districts created under the Church Building Acts for ecclesiastical purposes (*Reg.* v. *Barrow*, L. R. 4 Q. B. 577; 10 B. & S. 674; 20 L. T. (N. S.) 760; 17 W. R. 928), it is probable that the word "places" in this section must be interpreted as a place *ejusdem generis* with the preceding words, *i.e.*, a place separately maintaining its own poor.

or Acts, of any ancient and special usage or custom, or to change or affect the right or manner of voting in any vestry or meeting so holden. Sect. 8.

IX. Provided always, that nothing in this Act contained shall extend to any parish within the city of London. This Act not to extend to London;

X. Provided always, that nothing in this Act contained shall extend to any parish in the borough of Southwark. nor to Southwark;

[See note to sect. 9.]

XI. This Act shall extend only to that part of the United Kingdom called England and Wales; . . . and only to England and Wales.

DISORDERLY HOUSES ACT, 1818.

58 GEO. III., CHAP. 70.

An Act for facilitating the Means of prosecuting Persons accused of Felony and other Offences.* [3rd July, 1818.]

* * * * *

VII. Whereas by an Act of Parliament made and passed in the twenty-fifth year of the reign of His late Majesty King George the Second, intituled "An Act for preventing Thefts and Robberies and for regulating Places of Public Entertainment, and punishing Persons keeping Disorderly Houses," it is amongst other things enacted, that if any two inhabitants of any parish or place, paying scot and bearing lot therein, do give notice in writing to any constable, or other peace officer of the like nature where there is no constable of such parish or place, of

* The whole of this Act except so much thereof as relates to disorderly houses is repealed by the Criminal Law Act, 1826 (7 Geo. 4, c. 64), s. 32.

By a local Act the inhabitants of a parish paying church and poor rates were empowered to elect guardians of the poor. *Held* that the proviso in this section did not except the parish from the general operation of this Act; and that to bring a vestry within the exception it must have a very peculiar constitution (*Rex* v. *Clerkenwell*, 1 A. & E. 317; 3 N. & M. 411; and see *Nightingale* v. *Marshall*, 2 B. & C. 313; 3 D. & R. 549). Sect. 8. Note.

Metropolitan vestries were regulated by the Metropolis Management Acts, 1855 and 1856 (18 & 19 Vict. c. 120; 19 & 20 Vict. c. 112); but they have now ceased to exist, and their civil powers are transferred to the London borough councils by the London Government Act, 1899 (63 & 64 Vict. c. 14), s. 4. Sect. 9. Note.

Sect. 7.

any person keeping a bawdy-house, gaming-house, or any other disorderly house in such parish or place, the constable or such officer as aforesaid so receiving such notice shall forthwith go with such inhabitants to one of His Majesty's justices of the peace of the county, city, riding, division, or liberty in which such parish or place does lie, and shall, upon such inhabitants making oath before such justice that they do believe the contents of such notice to be true, and entering into a recognizance in the penal sum of twenty pounds each to give or produce material evidence against such person for such offence, enter into a recognizance in the penal sum of thirty pounds to prosecute with effect such person for such offence at the next general or quarter sessions of the peace, or at the next assizes to be holden for the county in which such parish or place does lie, as to the said justice shall seem meet: And whereas it is expedient that when any two inhabitants of any parish or place, paying scot and bearing lot therein, shall give notice in writing to any constable of such parish or place of any person keeping a bawdy-house, gaming-house, or any other disorderly house, in such parish or place, that the overseers of the poor of such parish or place shall have notice thereof: Therefore be it enacted, and it is hereby enacted, that a copy of the notice which shall be given to such constable shall also be served on or left at the places of abode of the overseers of the poor of such parish or place, or one of them, and such overseers or overseer of the poor shall be summoned or have reasonable notice to attend before such justice of the peace before whom such constable shall have notice to attend; and if such overseers or overseer of the poor shall then and there enter into such recognizance to prosecute such offender as the constable is in and by the said Act required to enter into, then it shall not be necessary for nor shall such constable be required to enter into such recognizance; but if such overseers or overseer of the poor shall neglect to attend such justice on having such notice, or shall attend and shall decline or refuse to enter into such recognizance to prosecute, then such constable shall enter into the same, and shall prosecute, and shall be entitled to his expenses, to be allowed as in and by the said Act is directed.

Notices by 25 Geo. 2, c. 36, directed to be given to constables in certain cases, to be given also to the overseers of the poor; who may prosecute in lieu of constables.

* * * * *

POOR RELIEF ACT, 1819.

59 GEO. III., CHAP. 12.

An Act to amend the Laws for the Relief of the Poor.
[31st March, 1819.]

[Preamble: "For the better and more effectual execution of the Laws for the Relief of the Poor, and for the amendment thereof."]

Sect. 1.

[Sects. 1—5. *Empowering parishes to establish select vestries for the concerns of the poor, and making provision for their constitution and proceedings:* Repealed by the S. L. R. Act, 1873, their place being taken by the Vestries Act, 1831 (1 & 2 Will. 4, c. 60).]

Justices may appoint non-resident overseers in certain cases.

VI. It shall be lawful for His Majesty's justices of the peace in their respective special sessions for the appointment of overseers of the poor, upon the nomination and at the request of the inhabitants of any parish in vestry assembled, to appoint any person who shall be assessed to the relief of the poor thereof, and shall be a householder resident within two miles from the church or chapel of such parish, or, where there shall be no church or chapel, shall be resident within one mile from the boundary of such parish, to be an overseer of the poor thereof, although the person so to be appointed shall not be a householder within the parish of which he shall be so appointed an overseer of the poor; and it shall be sufficient, in every such appointment, to describe the person appointed by his name and residence; provided that no person shall be appointed to or be compellable to serve the office of overseer of the poor of any parish or place in which he shall not be a householder, unless he shall have consented to such appointment.

Vestries may appoint assistant overseers with salaries:

VII. It shall be lawful for the inhabitants of any parish in vestry assembled to nominate and elect any discreet person or persons to be assistant overseer or overseers of the poor of such parish, and to determine and specify the duties to be by him or them executed and performed, and to fix such yearly salary for the execution of the said office as shall by such inhabitants in vestry be thought fit; and it shall be lawful for any two of His Majesty's justices of the peace, and they are hereby

---

Sect. 6. Note.

Overseers are appointed by virtue of the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 1, which requires them to be "the churchwardens of every parish, and four, three, or two substantial householders there." By the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 10, in townships and places where there are no churchwardens, power was given to overseers to do all things concerning the relief of the poor that churchwardens and overseers were empowered to do.

Now in rural parishes churchwardens have ceased to be overseers, and overseers are appointed by the parish council, or in small parishes by the parish meeting (Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 5, 19 (5). Power may also be conferred by the Local Government Board on the council of, or other representative body in, an urban district to appoint overseers (*Ib.* s. 33 (1)).

By the London Government Act, 1899 (63 & 64 Vict. c. 14), s. 11 (1), the council of each borough within the county of London are constituted the overseers of every parish within their borough.

Sect. 7. Note.

By sect. 35, *infra*, "the inhabitants of any parish in vestry assembled" include "meetings of the inhabitants of any township, vill, or place having separate overseers of the poor and maintaining

Sect. 7.

empowered, by warrant under their hands and seals, to appoint any person or persons who shall be so nominated and elected to be assistant overseer or overseers of the poor, for such purposes, and with such salary, as shall have been fixed by the inhabitants in vestry; and such salary shall be paid out of the money raised for the relief of the poor, at such times and in such manner as shall have been agreed upon between the inhabitants in vestry and the respective persons so to be appointed; and every person to be so appointed assistant overseer shall be and he is hereby authorized and empowered to execute all such of the duties of the office of overseer of the poor as shall in the warrant for his appointment be expressed, in like manner and as fully, to all intents and purposes, as the same may be executed by any ordinary overseer of the poor; and every person or persons so appointed shall continue to be an assistant overseer of the poor until he or they shall resign such office, or until his or their appointment shall be revoked by the inhabitants of the parish in vestry assembled, and no longer; and it shall be lawful for the inhabitants of any parish, upon the nomination and election by them of an assistant overseer or overseers, to require and take security for the faithful execution of his or their office, by bond, with or without a surety or sureties, and in such penalty as they shall think fit; and every such bond shall be made to the churchwardens and overseers of the poor, and may, on any breach of the condition thereof, be put in suit by and in the names of the churchwardens and overseers of the poor for the time being, by the direction of the vestry or select vestry, for the benefit of the parish, in the manner hereinafter provided.

and may take security from them.

Sect. 7.

Note.

its poor separately, to be held after due and legal notice for carrying into execution the laws for the relief of the poor."

WHO MAY APPOINT ASSISTANT OVERSEERS.

In rural parishes assistant overseers are now appointed, and the appointments may be revoked by the parish council or parish meeting (Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 5 (1), 19 (5)). And power may also be conferred on the council of, or other representative body in, an urban district to appoint and revoke the appointment of assistant overseers (*Ib.* s. 33 (1)). In the county of London the various borough councils who are constituted the overseers of every parish within their borough appoint officers to do the work of assistant overseers (London Government Act, 1899 (63 & 64 Vict. c. 14), s. 11 (1)).

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 61, boards of guardians were in certain cases empowered to appoint assistant overseers, but so much of that section as gave the guardians a right to appoint an assistant overseer under an order of the Poor Law Commissioners, and to deprive the vestry of its rights of appointment under 59 Geo. 3, c. 12, as well as so much of every other enactment as authorized the appointment of assistant overseers by a board of guardians, is now repealed by the Local Government Act, 1894 (56 & 67 Vict. c. 73), s. 81 (6); but an assistant overseer who was appointed n a rural parish by a board

WHO MAY APPOINT ASSISTANT OVERSEERS—*continued.*

Sect. 7.

Note.

of guardians before the Local Government Act, 1894, does not become an officer of the parish council of such parish (*Ib.* s. 81 (3)), and as he is to hold his office by the same tenure and on the same terms as before that Act (*Ib.* s. 81 (4)), the board of guardians that appointed him will be the only authority capable of determining his appointment.

Any assistant overseer existing at the passing of the Local Government Act, 1894, in a parish for which a parish council is elected, unless appointed by a board of guardians under 7 & 8 Vict. c. 101, s. 61, *supra*, became and now is an officer of the parish council (*Ib.* s. 81 (3)), and holds his office by the same tenure and upon the same terms and conditions as theretofore, and while performing the same duties is to receive not less salary or remuneration than theretofore (*Ib.* s. 81 (4)).

When a parish is divided by the Local Government Act, 1894, an assistant overseer will hold his office as assistant overseer for each parish formed by the division, and his salary will be borne by the respective parishes in proportion to their rateable value at the commencement of the local financial year next after March 5th, 1894 (*Ib.* s. 81 (5)).

APPOINTMENT AND REMOVAL OF ASSISTANT OVERSEER.

When any person has been in fact nominated and elected assistant overseer by the vestry under this section, the justices are bound to issue their warrant for his appointment, and they have no power to inquire whether he has been duly elected (*Reg.* v. *Shipley*, 22 Q. B. D. 96; 58 L. J. M. C. 6; 59 L. T. 696; 37 W. R. 27; 53 J. P. 261), even though the election appears from the minutes of the meeting to be open to objection (*Underwood* v. *Jones*, 60 L. J. M. C. 58; 64 L. T. 144; 55 J. P. 296).

Semble, the appointment of overseers and assistant overseers under the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (1), is complete by election by the parish council, and no document is required beyond a minute of the appointment (*Reg.* v. *Powell*, [1899] 1 Q. B. 396).

There is no statutory provision authorizing the inhabitants in vestry to appoint a mere collector of rates, but only an assistant overseer under 59 Geo. 3, c. 12, s. 7, though one of the duties assigned to an assistant overseer may be the collection of rates (*Reg.* v. *Greene*, 17 Q. B. 793, at p. 815, *per* Lord Campbell, C.J.).

If more than one assistant overseer is to be appointed at the same meeting, the vote upon each appointment must be taken separately, and not collectively (*Rex* v. *Player*, 2 B. & Ald. 707).

Y. had, in 1859, been duly elected and nominated by the inhabitants in vestry to be assistant overseer of the parish, which was co-extensive with the borough, at a certain fixed salary. He was subsequently duly appointed assistant overseer by two justices, pursuant to 59 Geo. 3, c. 12, s. 7. In March, 1861, he gave notice of resignation to the board of guardians, but recalled the notice prior to Lady-day, 1861, on which day, by a resolution of the inhabitants in vestry assembled, his salary was increased by a fixed sum. The sanction of two justices to this increase was not obtained, and there was no re-appointment of Y. by the justices, and he continued to

APPOINTMENT AND REMOVAL OF ASSISTANT OVERSEER—*continued.*

Sect. 7.

Note.

act as assistant overseer. It was held that the original appointment was good and subsisting (*Cuunter* v. *Addams*, 15 C. B. (N. S.) 512; 33 L. J. C. P. 18; 9 L. T. (N. S.) 391; 9 Jur. (N. S.) 1295).

Payment or the promise of payment for votes at the election of an assistant overseer is bribery, and as such is an indictable common law misdemeanour (*Reg.* v. *Lancaster*, 16 Cox, C. C. 737).

A *mandamus* to elect an assistant overseer was refused, as the office was held at will, and at the election, which had taken place, no gross scandal was shown to have taken place (*Reg.* v. *All Saints', Newcastle*, L. G. Chron. 1882, p. 350), nor does *quo warranto* lie for the office of assistant overseer (*Reg.* v. *Simpson*, 19 W. R. 73).

As the office of assistant overseer is held at will, the authorities who elect an assistant overseer may revoke the appointment; but in addition to this means of dismissal, the Local Government Board may, either upon or without complaint, remove any assistant overseer whom they may think unfit or incompetent to discharge the duties of his office, or who shall refuse or neglect to carry into effect any rules or orders of the Board, and may require the persons competent in that behalf to appoint a fit and proper person in his room (Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 48).

If an assistant overseer be appointed under this section, and the guardians, on the recommendation of the vestry, afterwards appoint the same person collector under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 62, *semble*, that such appointment will operate as a revocation of the appointment under this section and a resignation of the office (*Malling* v. *Graham*, L. R. 5 C. P. 201; 39 L. J. C. P. 74; 22 L. T. (N. S.) 789).

An assistant overseer cannot now be appointed an overseer nor can an overseer be appointed an assistant overseer (Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 10). Formerly the two offices were not deemed incompatible, and the acceptance of the office of overseer by an assistant overseer did not vacate the latter office (*Worth* v. *Newton*, 10 Exch. 247; 23 L. J. Ex. 338; 24 L. T. 157).

DISQUALIFICATIONS FOR, AND ATTACHING TO, THE OFFICE OF ASSISTANT OVERSEER.

An assistant overseer is disqualified from being appointed a guardian of any parish (Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 14); or an overseer of any parish (Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 10); or a parish councillor of the parish for which he is assistant overseer (Local Government Act, 1894 (56 & 57 Vict. c.7 3), ss. 46, 81). The conviction of an assistant overseer of felony, fraud, or perjury, vacates his appointment (Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 49). A person guilty of corrupt practices at parliamentary or municipal elections is disqualified for seven years from being appointed to the office (Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), ss. 4, 5; Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), ss. 2, 3, 36). An assistant overseer may not act in any way as agent of any officer or guardian of any parish or union other than

DISQUALIFICATIONS FOR, AND ATTACHING TO, THE OFFICE OF ASSISTANT OVERSEER—*continued.*

Sect. 7.

Note.

that for which he is appointed, except in conformity with the rules of the Local Government Board (Gen. Cons. Order, July 24th, 1847, arts. 77—79, 222).

No master of a workhouse nor any relieving officer, so long as he shall continue to be such master or relieving officer, is qualified to be appointed to the office, except where the Local Government Board may authorize a relieving officer to hold a paid office in a parish (Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 6).

DUTIES OF ASSISTANT OVERSEER.

Where one was elected assistant overseer under 59 Geo. 3, c. 12, s. 7, by warrant of justices, to perform all the duties of an overseer, but the resolution of the vestry electing him did not specify any duties to be performed by him, it was held that the justices were right in construing the resolution of the vestry to mean that he was to perform all the duties of overseer, so as not to make it a nullity (*Skingley* v. *Surridge*, 11 M. & W. 503; 12 L. J. M. C. 122; 7 Jur. 773; *Reg.* v. *Salop JJ.*, [1864] 11 L. T. (N. S.) 416).

Where there is no express limitation of the duties to be performed by such assistant overseer, he must be taken to have been appointed to perform all the ordinary duties of an overseer, and is, in fact, an overseer within the Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 17, to receive objections to persons placed on the list of parliamentary voters (*Points* v. *Attwood*, 6 C. B. 38; 18 L. J. C. P. 19; 13 Jur. 83), and to sign a rate, and be reckoned as one of the majority of churchwardens and overseers signing the rate (*Baker* v. *Locke*, 18 C. B. (N. S.) 52; 34 L. J. C. P. 49; 11 Jur. (N. S.) 65; 11 L. T. (N. S.) 567; 13 W. R. 258).

If it be objected that an assistant overseer did not sign a notice as one of the overseers, the person objecting must show that from the nature of his appointment it was his duty to sign (*Rex* v. *Yorks. N. R. JJ.*, [1837] 6 A. & E. 863; 6 L. J. M. C. 110; 2 N. & P. 103).

An assistant overseer is entitled to have access to all books and documents in the possession of the overseers for the purpose of performing his duties. Where the overseers of a parish expressed their intention of collecting the rates themselves, but the parish council by resolution appointed an assistant overseer, the court granted a *mandamus* to the overseers to deliver to the assistant overseer the rate-books and all other books in their custody as overseers for the purpose of enabling him to perform the duties of his office (*Reg.* v. *Powell*, [1899] 1 Q. B. 396; 63 J. P. 84); following a similar decision with regard to a collector of poor rates (*Reg.* v. *Christchurch*, 27 L. J. M. C. 23; 21 J. P. 533).

EMBEZZLEMENT BY ASSISTANT OVERSEER.

It was the duty of an assistant overseer to pay all rates received by him into a bank, and get a receipt from the overseers. He fraudulently obtained some receipts, on pretence of having paid the sums into the bank, and with a view to deceive the auditor. He afterwards entered these sums to his debit in the book he kept. *Held* that he was rightly convicted of embezzlement, and that his

EMBEZZLEMENT BY ASSISTANT OVERSEER—*continued.*

Sect. 7.

Note.

debiting himself in his book of account did not purge the offence (*Reg.* v. *Guelder*, 3 L. T. (N. S.) 337; 24 J. P. 742).

An assistant overseer elected under 59 Geo. 3, c. 12, s. 7, is to be deemed the servant of the inhabitants of the parish, and to receive money collected by him for the poor rate levied upon the parish, as such servant, and may be so described in an indictment for embezzling such money so received (*Reg.* v. *Carpenter*, L. R. 1 C. C. R. 29; 35 L. J. M. C. 169; 12 Jur. (N. S.) 380; 14 L. T. (N. S.) 572); and now in respect of any indictment or criminal proceeding every collector or assistant overseer appointed under the authority of any order of the Local Government Board, is to be deemed and taken to be the servant of the inhabitants of the parish whose money or other property he shall be charged to have embezzled or stolen, and shall be so described; and it is sufficient to state any such money or property to belong to the inhabitants of such parish, without the names of any such inhabitants being specified (Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 15). An assistant overseer appointed by a parish council is also properly described in an indictment for embezzlement as the servant of the inhabitants of the parish (*Reg.* v. *Smallman*, [1897] 1 Q. B. 4; 66 L. J. Q. B. 82; 75 L. T. 394).

SECURITY TO BE TAKEN FROM ASSISTANT OVERSEERS AND COLLECTORS.*

Where a person is duly appointed an assistant overseer under the provisions of 59 Geo. 3, c. 12, s. 7, it is still competent to the vestry of the parish to require that such a person shall give a bond to the churchwardens and overseers of the parish. But by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 61, it is incumbent upon assistant overseers so appointed to give security to the guardians of the union comprising such parish. This latter provision, though it does not repeal the previous provision, practically supersedes it, and renders the giving of security to the churchwardens and overseers superfluous. Where, however, security has been taken under 59 Geo. 3, c. 12, s. 7, the provisions of 7 & 8 Vict. c. 101, s. 61, do not transfer such bonds to the guardians, but merely give the guardians the same powers which the vestry formerly had of controlling suits on such bonds. Such securities should, however, be delivered into the custody of the guardians (*Skelton* v. *Rushby*, 4 Exch. 545; 19 L. J. M. C. 29).

No provision is contained in the Local Government Act, 1894, as to the security to be given by assistant overseers appointed by parish councils or parish meetings, or by town or urban district councils, or representative bodies in urban districts; but *semble* that the terms of their appointment may include a provision that they shall give security to the authority making the appointment (see *Llanfylln* v. *Evans*, 22 J. P. 737, *infra*).

The bond of an assistant overseer need not necessarily show that it was taken under the authority of any statute, or that the plaintiffs suing upon it had any power or authority to take the bond or

* As the same principles apply to the bonds given by assistant overseers and collectors, the cases relating to both classes of officers are collected here.

SECURITY TO BE TAKEN FROM ASSISTANT OVERSEERS AND COLLECTORS—*continued.*

Sect. 7.

Note.

could act upon it in their corporate name and capacity (*Llanfyllin* v. *Evans*, 22 J. P. 737).

A reduction in the salary of an assistant overseer made by the vestry in consequence of the duties having become lighter does not discharge the sureties from liability on their bond (*Franks* v. *Edwards*, 8 Exch. 214; 22 L. J. Ex. 42), but where the payment is changed from a poundage to a fixed salary the sureties are discharged (*Bamford* v. *Iles*, 3 Exch. 380; 18 L. J. M. C. 49; 13 J. P. 652); and when the recital of the condition of the bond is that the officer shall be paid by a fixed salary, and after the bond is executed the mode of remuneration is changed to a commission by way of salary, it has been held in the case of a servant of a railway company that inasmuch as the surety only undertook to be responsible for the faithful conduct of the servant whilst he continued to receive a fixed salary, the surety was not liable after the change in the mode of remuneration (*North Western Rail. Co.* v. *Whinray*, 10 Exch. 77; 23 L. J. Ex. 261).

A person was nominated by the vestry assistant overseer on March 27th, but the resolution did not specify any salary. On May 9th following two sureties executed the usual bond. On March 19th in the following year the vestry resolved that the assistant overseer's salary be raised from 27*l.* to 35*l.* a year, including all extras. On June 25th a warrant of justices was made which recited that the assistant overseer was appointed on March 19th. *Held* that the appointment was not valid, no appointment having been made pursuant to the resolution of March 27th, and therefore the sureties were not liable for the breach of the condition of the bond (*Holland* v. *Lea*, 9 Exch. 430; 23 L. J. M. C. 123; 18 J. P. 201).

If the nature of the office be materially altered the sureties will be no longer liable (*Pybus* v. *Gibbs*, 6 E. & B. 902; 3 Jur. (N. S.) 315). The appointment as rate collector by the guardians under 7 & 8 Vict. c. 101, s. 62, of a person who had been appointed assistant overseer under 59 Geo. 3, c. 12, s. 7, is such a change of duties as to release the sureties to a bond conditioned for the due performance of the duties of assistant overseer (*Malling* v. *Graham*, L. R. 5 C. P. 201; 39 L. J. C. P. 74; 22 L. T. (N. S.) 789); but the appointment of an assistant overseer to be overseer was held not to affect the liability of the sureties (*Worth* v. *Newton*, 10 Exch. 247; 23 L. J. Ex. 338; 24 L. T. 157).

The condition of a collector's bond was that he should, during the time that he should continue in the said office of collector, whether by virtue of his aforesaid appointment or of any re-appointment thereto, duly discharge the duties of his office and use his best endeavours to collect the rates which might during that year or any subsequent year be made. The collector was to be elected for a year, and was capable of being re-elected. *Held* that the bond continued during all the time that the collector was continuously re-appointed to the office (*Angero* v. *Keen*, 1 M. & W. 390; 5 L. J. Exch. 233).

The sureties to an assistant overseer's bond are, however, not in general liable if the appointment be renewed annually and the bond be not also renewed (*Bamford* v. *Iles*, 3 Exch. 380; 18 L. J. M. C.

SECURITY TO BE TAKEN FROM ASSISTANT OVERSEERS AND COLLECTORS—*continued.*

Sect. 7.

Note.

49; 13 J. P. 652); and if the appointment mentioned in the condition to a bond be for one year only, the liability of the sureties will not continue to a subsequent year under a new appointment (*Cambridge, Mayor, &c., of*, v. *Dennis*, E. B. & E. 660).

To an action for debt on a bond given by a collector of rates, it was pleaded that the said collector "did not at any time during the continuance of the said appointment legally receive any money by virtue or for the purposes of the said Act, or relative to the collectorship of the said rates;" and it was held that such plea was an answer to the action (*Webb* v. *James*, 7 M. & W. 279; 10 L. J. Exch. 89; 9 Dowl. 314).

The poor law commissioners had ordered the guardians of a union to appoint one or more collectors of poor rates, and three were appointed, each to a district. Four were subsequently appointed. One of the four having resigned, it was resolved that two persons should be appointed "collectors for the parish of P., to one of whom should be assigned the collection of small tenements' rates." P. offered to be "one of the collectors," and was appointed, and the bond of W., his surety, was conditioned that P. would, whether the district was changed or not, act as such collector and obey the orders of the guardians, &c. P. at first collected the small tenements' rates, but afterwards he was removed to another district, no new bond being executed. *Held* that he was appointed a collector generally for the parish, and therefore there was no change in the office to which he was appointed, and the surety continued liable after P.'s removal to the district (*Portsea Island Union* v. *Whillier*, 2 E. & E. 755; 29 L. J. Q. B. 156; 6 Jur. (N. S.) 887; 2 L. T. (N. S.) 211; 24 J. P. 678).

A bond conditioned for the due performance by A. of his duties as collector of poor rates and of the sewers rate for the parish of B. was held to be divisible, and a plea that before breach of the bond an Act was passed increasing the duties of A. as collector of sewers rate, and under which he was also elected collector of main drainage rates by the persons under whom he held his other appointments, was held to be no answer to the defendant's liability for A.'s breaches of duty as collector of poor rates (*Skillett* v. *Fletcher*, L. R. 2 C. P. 469; 35 L. J. C. P. 154; 12 Jur. (N. S.) 295; 14 L. T. (N. S.) 61; 31 J. P. 452).

Where the condition of a collector's bond was to collect and pay over to the persons entitled all moneys collected, and the collector absconded, on an action by the guardians on the bond it was held that the sureties were not discharged, there being no proof of *laches* in the overseers or guardians in not detecting the irregularities of the collector (*Mansfield Union* v. *Wright*, 9 Q. B. D. 683; 47 L. T. (N. S.) 602; 47 J. P. 228). But if an employer continues to employ a servant after knowledge that he has committed a breach of a surety bond, whether accompanied by dishonesty or not, of the duty for the due fulfilment of which another has become surety, without the consent of the surety to a continuance of the service, the employer can no longer hold the surety responsible under the bond (*Sanderson* v. *Aston*, L. R. 8 Ex. 73; 28 L. T. (N. S.) 35; *Phillips* v. *Foxall*, L. R. 7 Q. B. 666; 27 L. T. (N. S.) 231).

Sect. 8.

[Sect. 8. *Power to churchwardens and overseers to build or enlarge workhouses.* Sect. 9. *Insufficient workhouses may be sold by churchwardens and overseers with consent of two justices.* Sect. 10. *Where no workhouse can be procured in the parish, a house or building in an adjoining parish may be purchased or hired:* Repealed by the S. L. R. Act, 1873, being replaced by 4 & 5 Will. 4, c. 76, ss. 23, 25, and Acts amending the same.]

Such building, as to settlement, shall be deemed in the parish for which it was purchased or hired.

XI. Every house and building which shall be so purchased or hired, shall, in all questions relative to the settlement of persons born or lodged therein, be deemed and taken to be part of the parish on behalf of which the same shall be purchased or hired, and by which the same shall be used as a poorhouse or workhouse.

43 Eliz. c. 2.

Parishes may provide land for the employment of the poor not exceeding 20 acres;

XII. [*Recital that by* 43 *Eliz.* c. 2, *s.* 1, *churchwardens and overseers were directed to set to work persons therein described, and that they had not sufficient powers to keep such persons fully and constantly employed.*] It shall be lawful for the churchwardens and overseers of the poor of any parish, with the consent of the inhabitants thereof in vestry assembled, to take into their hands any land or ground which shall belong to such parish, or to the churchwardens and overseers of the poor of such parish, or to the poor thereof, or to purchase or to hire and take on lease, for and on account of the parish, any suitable portion or portions of land within or near to such parish, not exceeding twenty acres in the whole; and to employ and set to work in the cultivation of such land, on account of the parish, any such persons as by law they are directed to set to work, and to pay to such of the poor persons so employed as shall not be supported by the parish, reasonable wages for their work; and the poor persons so employed shall have such and the like remedies for the recovery of their wages, and shall be subject to such and the like punishment for misbehaviour in their employment, as other labourers in husbandry are by law entitled and subject to.

Sect. 11.

Note.

By the Poor Relief Act, 1814 (54 Geo. 3, c. 170), ss. 3, 4, provision is made in respect of the settlement of persons born or lodged in a workhouse. By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 56, as extended by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 21, a workhouse is to be deemed to be situated in every parish of the union for *inter alia* purposes of settlement.

Sect. 12.

Note.

By the Poor Relief Act, 1831 (1 & 2 Will. 4, c. 42), the amount of land which may be hired or taken on lease for the purposes of this section is increased from twenty to fifty acres, and power is given, under certain conditions, to inclose waste lands for the same purposes. The latter power of inclosure is extended to Crown forest and waste lands by the Crown Allotments Act, 1831 (1 & 2 Will. 4, c. 59).

Sect. 13.

and may let portions of parish land to poor inhabitants.

XIII. Provided, that for the promotion of industry amongst the poor, it shall be lawful for the churchwardens and overseers of the poor of any parish, with the consent of the inhabitants in vestry assembled, to let any portion and portions of such parish land as aforesaid, or of the land to be so purchased or taken on account of the parish, to any poor and industrious inhabitant of the parish, to be let by him or her occupied and cultivated on his or her own account, and for his or her own benefit, at such reasonable rent and for such term as shall by the inhabitants in vestry be fixed and determined.

[Sect. 14. *Limiting the amount to be raised for buildings and the purchase of lands, &c.* Sect. 15. *Empowering the raising of further sums by loans or by the sale of annuities, and the charging of future rates therewith.* Sect. 16. *Limiting the charge on future rates to one shilling in the pound unless with consent of two-thirds in value of the proprietors of premises:* Repealed by the S. L. R. Act, 1873.]

Buildings, &c., to be conveyed to churchwardens and overseers;

XVII. All buildings, lands, and hereditaments which shall be purchased, hired, or taken on lease by the churchwardens and overseers of the poor of any parish, by the authority and for any of the purposes of this Act, shall be conveyed, demised, and assured to the churchwardens and overseers of the poor of every such parish respectively, and their successors, in trust

---

Sect. 12. Note.

By the Union and Parish Property Act, 1835, the powers given by this section to churchwardens and overseers are to be exercised (under the control of the Local Government Board) by the guardians. By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (2) (c), the legal interest in lands vested in the churchwardens and overseers is in rural parishes vested in the parish council, or by sect. 19 (7), if there is no parish council, in the chairman of the parish meeting and the overseers; and by sect. 6 (1) (d), the powers exercisable with the approval of the Local Government Board by the guardians for the union comprising the parish in respect of the sale, exchange, or letting of parish property are also transferred to the parish council.

Sect. 13. Note.

For the transfer of the powers of churchwardens and overseers to parish councils in rural parishes see note to sect. 12, *supra*.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 8 (2), parish councils are empowered to let for the purpose of allotments any land vested in them, without requiring the consent thereto of any other authority.

Under the old law it was held that all the churchwardens and overseers must concur in making a valid lease under this section (*Doe* d. *Landsell* v. *Gower*, 17 Q. B. 589).

Sect. 17. Note.

For the vesting of parish property in the parish councils of rural parishes see note to sect. 12, *supra*.

In other parishes, although the property remains in the churchwardens and overseers, the power of sale and exchange is vested in

Sect. 17.

who may hold lands and bring actions, &c., as a body corporate.

for the parish ; and such churchwardens and overseers of the poor, and their successors, shall and may and they are hereby empowered to accept, take, and hold, in the nature of a body corporate, for and on behalf of the parish, all such buildings, lands, and hereditaments, and also all other buildings, lands, and hereditaments belonging to such parish ; and in all actions, suits, indictments, and other proceedings for or in relation to any such buildings, land, or hereditaments, or the rent thereof, or for or in relation to any other buildings, lands or hereditaments belonging to such parish, or the rent thereof, and in all actions and proceedings upon or in relation to any bond to be given for the faithful execution of the office of an assistant overseer, it shall be sufficient to name the churchwardens and overseers of the poor for the time being, describing them as the churchwarden and overseers of the poor of the parish for which they shall act, and naming such parish ; and no action or suit, indictment, or other proceeding shall cease, abate, or be discontinued, quashed, defeated, or impeded by the death of the churchwardens, and overseers named in such proceeding, or the deaths or death of any of them, or by their removal or the removal of any of them from or the expiration of their respective offices.

Sect. 17 Note.

the guardians of the union in which the parish is comprised (Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 3).

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 52 (4), where the legal estate in any property is vested in the churchwardens and overseers of any parish by virtue of this Act, nothing in the Charitable Trusts Acts, 1853 to 1891, shall be deemed to require the consent of such churchwardens and overseers in their capacity as a corporation under this Act, or the parish council as their successors, to a vesting order under those Acts dealing with the said legal estate. By sect. 14 (2) of the same Act, "where overseers of a rural parish as such are either alone or jointly with any other persons trustees of any parochial charity, such number of the councillors of the parish or other persons, not exceeding the number of the overseer trustees, as the council may appoint, shall be trustees in their place, and where the charity is not an ecclesiastical charity this enactment shall apply as if the churchwardens as such were specified therein as well as the overseers."

INCORPORATION OF CHURCHWARDENS AND OVERSEERS.

Before the incorporation of overseers by this section, overseers could not recover possession of premises of which previous overseers had put a pauper into possession, unless the pauper had done some act to recognize his holding under them (*Doe* d. *Grundy* v. *Clarke*, 14 East, 488).

In order to constitute the body corporate intended by this section there must be two overseers and one or more churchwardens ; and where there were two overseers appointed, one of whom was afterwards appointed (by custom) churchwarden, held that this section did not vest parish property in them (*Woodcock* v. *Gibson*, 4 B. & C. 462 ; 6 D. & R. 524 ; 28 R. R. 325).

INCORPORATION OF CHURCHWARDENS AND OVERSEERS—*con.*

Sect. 17.

Note.

In actions brought by churchwardens and overseers in respect of lands held by them by force of this section, they must describe themselves as the churchwardens and overseers of the poor of the parish (*Ward* v. *Clarke*, 13 L. J. Exch. 229); and in ejectment, the fact that the lessors acted as churchwardens and overseers at the time of the demise is sufficient *primâ facie* evidence that they were in fact churchwardens and overseers (*Doe* d. *Bowley* v. *Barnes*, 8 Q. B. 1037; 10 J. P. 309).

Under this section it is competent to any one of the churchwardens or overseers, without the consent of the majority, to authorize a distress for rent in arrear (*Gouldsworth* v. *Knights*, 11 M. & W. 337; 22 L. J. Ex. 282). But service of a writ to recover possession of lands from the churchwardens and overseers must be made upon them all, and service upon one is not sufficient (*Doe* d. *Weeks* v. *Roe*, 5 Dowl. 405).

Not a complete corporation.

The churchwardens and overseers are not by this section made a complete body corporate, but are only empowered to "accept, take, and hold *in the nature* of a body corporate," and it is not therefore necessary in proving their title to real property to show their acceptance of the demise of such property by an instrument under a common seal. Such a demise is good although the names of the churchwardens and overseers to whom it is made are not mentioned, it being sufficient that the grant should be by the name of office to the then individual officers (*Smith* v. *Adkins*, 8 M. & W. 362). As a result of the incomplete nature of their incorporation, churchwardens and overseers of a parish have no power to execute a power of attorney authorizing a person to continue to receive the dividends of stock notwithstanding the alteration in the number and identity of the persons forming the corporation (*Ex parte Annesley*, 2 Y. & C. Exch. 350; 6 L. J. Ex. 81).

So also as parish property is by this section vested in the churchwardens and overseers for the time being, a lease of such property for a term of years did not pass a legal interest in the term, and succeeding churchwardens and overseers might treat the tenant as a tenant from year to year, and give him an effective notice to quit (*Doe* d. *Higgs* v. *Terry*, 4 A. & E. 274; 5 N. & M. 556; 5 L. J. M. C. 27).

VESTING OF PROPERTY IN THE CORPORATION.

This section applies to cases only where the rents of the land are applicable solely to parochial purposes which are under the control of the parish officers. If the churchwardens and overseers take land jointly with other persons, such as the surveyors of highways, the terms of the statute are not complied with, as the other persons having a legal interest in the lands may not devote the rents to purely parochial purposes. In an agreement, therefore, by the churchwardens and overseers jointly with the surveyors of highways to rent certain lands, it was held that they did not take such lands as a body corporate, and were consequently individually responsible for the rent (*Uthwatt* v. *Elkins*, 13 M. & W. 772; 14 L. J. Ex. 131).

But where land was held jointly by the churchwardens and overseers of a parish and the corporation of a borough in which the parish lay, not upon any special trust, but for general parochial purposes, it was held that the churchwardens and overseers might bring ejectment for such land as having become vested in them by

VESTING OF PROPERTY IN THE CORPORATION—*continued.*

Sect. 17.

Note.

force of this section (*Doe* d. *Edney* v. *Benham*, 7 Q. B. 976; 10 J. P. 38).

An agreement in the form of a lease was made by the owner of certain premises with the committee of a parish for the purpose of converting them into a poorhouse for the use of the parish. *Held* that the lease vested in the churchwardens and overseers of the parish by force of this section (*Alderman* v. *Neate*, 4 M. & W. 704; 8 L. J. Ex. 89).

Estates held in trust for the repair of the church and the relief of the poor in a particular parish, and for other charitable purposes, were held not to be vested in the churchwardens and overseers of the parish under this section (*Att.-Gen.* v. *Lewin*, 8 Sim. 306; 6 L. J. Ch. 204); nor lands held upon special trusts for a parish (*In re Paddington Charities*, 8 Sim. 629; 7 L. J. Ch. 44); nor lands held on trust to pay a moiety of the rents towards the better relief of the most poor and needy people of the parish, and the other moiety to apprentice poor boys (*Allason* v. *Stark*, 9 A. & E. 255; 8 L. J. M. C. 13). All of these cases are discussed in the case of *St. Nicholas, Deptford*, v. *Sketchley*, 8 Q. B. 394, *infra*.

It has, however, been held that not only lands and tenements, the profits of which are applicable solely to the relief of the poor, but also lands, &c., the profits of which are applicable to the purposes for which a church rate is levied, are vested by this section in the churchwardens and overseers of the parish, and that, too, notwithstanding such lands, &c., had originally been vested in specific trustees for the benefit of the parish (*Doe* d. *Jackson* v. *Hiley*, 8 B. & C. 885; 5 M. & Ry. 706; 8 L. J. M. C. 105).

A further distinction has been raised in respect of which the courts have differed. Assuming that lands are held upon trust for general parochial purposes, it has been held that if such lands were vested in special trustees to permit the churchwardens and overseers to receive the rents, &c., for such parochial purposes, the legal estate in such lands became by force of this section vested in the churchwardens and overseers, notwithstanding the fact that the special trustees were alive (*Rumball* v. *Munt*, 8 Q. B. 382). On the other hand, it has been held that if such lands are vested in known existing trustees, however general the parochial purposes may be towards which the rents and profits are applicable, the words of this section are not sufficiently explicit to divest the legal estate from such trustees and vest it in the churchwardens and overseers, such lands not being capable of being considered "parish property" within this section (*St. Nicholas, Deptford*, v. *Sketchley*, 8 Q. B. 394; 17 L. J. M. C. 17).

MORTMAIN.

Where lands were conveyed to parish officers in trust to permit the same to be used as a poorhouse, it was held that the conveyance was not void under the Statutes of Mortmain (*Burnaby* v. *Barsby*, 4 H. & N. 690; 28 L. J. Ex. 326; 7 W. R. 693). This decision has, however, been questioned, and *semble* that land acquired by parish officers to enable them to perform their statutory obligations, as for instance by providing a workhouse, is land acquired for a "charitable use," and the requirements of the Mortmain Act in respect of such lands must be complied with (*Webster* v. *Southey*, 36 Ch. D. 9; 56 L. J. Ch. 785; 56 L. T. 879; 35 W. R. 622; 52 J. P. 36).

Sect. 18.

[Sect. 18. *Persons under disability empowered to convey. Powers and directions of* 22 Geo. 3, c. 83, *applied to this Act:* Repealed by the S. L. R. Act, 1873.]

Vestries may resolve to rate owners of certain houses, &c., instead of occupiers.

XIX. [*Recital of the inconvenience and loss attending the collection of rates from tenants of small tenements.*] It shall be lawful for the inhabitants of any parish in vestry assembled, and they are hereby empowered, to resolve and direct that the owner or owners of all houses, apartments, or dwellings in such parishes, being the immediate lessor or lessors of the actual occupier or occupiers, which shall respectively be let to the occupiers thereof at any rent or rate not exceeding twenty pounds, nor less than six pounds by the year, for any less term than one year, or on any agreement by which the rent shall be reserved or made payable at any shorter period than three months, shall be assessed to the rates for the relief of the poor, for or in respect of such houses, apartments, or dwellings, and the outhouses and curtilages thereof, instead of the actual occupiers; and the inhabitants so assembled in vestry may and they are hereby authorized from time to time to rescind, renew, vary and amend every such resolution and direction as they shall see occasion, so as no such resolution or direction shall extend to assess or charge the owner of any house, apartment, or dwelling which shall with the outhouses and curtilages thereof be let at a greater rent than twenty pounds or less than six pounds as aforesaid; and the churchwardens and overseers of the poor of every such parish are hereby empowered and required to carry into effect all such resolutions and directions of the inhabitants in vestry assembled, and in pursuance and execution thereof, in all rates to be by them made for the relief of the poor, to assess by a fair and equal pound rate the owner or owners, being the immediate lessor or lessors of the actual occupier or occupiers, of every house, apartment, or dwelling to which such resolution and direction shall extend, for or in respect of the same, according to the actual rent at which every such house, apartment, or dwelling shall be let, after making a reasonable deduction from such rent, not exceeding in any case one-half of the same; and upon non-payment of the sum or sums so to be assessed, the

Sect. 19. Note.

The owner of a house let "on any agreement by which the rent is reserved or made payable at any shorter period than three months" cannot be assessed to the poor rate instead of the actual occupier under this section if the rent is at a rate which amounts to more than 20*l.* by the year (*West Ham* v. *Iles*, 8 App. Cas. 386).

This section is impliedly repealed by virtue of the provisions of subsequent Acts altering the basis upon which and the persons by whom the rate was to have been made upon the owner under this section, and owners can now be rated to the poor rate instead of occupiers only under the provisions of the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), ss. 3, 4 (*West Ham* v. *Fourth City Mutual Benefit Building Society*, [1892] 1 Q. B. 654; 61 L. J. M. C. 128; 66 L. T. 350; 40 W. R. 446; 56 J. P. 438).

same may and shall be levied upon and the payment thereof be enforced against such owner and owners, lessor and lessors, so to be assessed, and his and their goods and chattels, in like manner as rates for the relief of the poor may by law be levied and recovered, and the payment thereof enforced, upon and against any actual occupier on whom the same are charged. Sect. 20.

Goods of occupiers may be distrained for rates to the amount of the rent actually due.

XX. Provided also, that the goods and chattels of every occupier of any such house, apartment, or dwelling which shall be found in and about the same, shall be liable to be distrained and sold for raising so much of any such rate or assessment being in arrear as shall have become due during the occupancy of the person or persons whose goods and chattels shall be so distrained (to be ascertained in a summary way by the justices granting the warrant of distress), so that in no case any greater sum be raised by distress of the goods and chattels of any such occupier than shall, at the time of making such distress, be actually due from such occupier for rent of the premises on which such distress shall be made: Provided also, that every occupier who shall pay any such rate or rates, or upon whose goods or chattels the same or any part thereof shall be levied, shall and may deduct the amount of the sum which shall be so paid or levied out of the rent by him or them payable; and such payment shall be a sufficient discharge to every such occupier for so much of the rent payable by him as he shall have paid, or as shall have been levied on his goods and chattels, of such rate, and for the costs of levying the same.

Occupiers paying rates may deduct the amount out of their rent.

Receivers in certain cases shall be rated as owners.

XXI. Provided that every person receiving or claiming the rent of any such house, apartment, or dwelling for his or her own use, or receiving the same for the use of any corporation aggregate, or of any landlord or lessor who shall be a minor, under coverture, or insane, or for the use of any person who shall not be usually resident within twenty miles from the parish in which any such house, apartment, or dwelling shall be situated, shall for this purpose be deemed and taken to be and shall be rateable as the owner thereof.

Persons rated as owners may appeal;

and may vote in vestries.

XXII. Provided also, that every person to be rated as the owner of any such house, apartment, or dwelling, who shall think himself or herself aggrieved by any such rate, shall have such and the like remedy by appeal against the same, as any other person thereby rated; and every person so rated shall be entitled, as an inhabitant of the parish in and for which he shall be assessed, to be present and to vote in every vestry or meeting

Sect. 20. Note.

For proceedings in a distress for rates, see the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14). The provisions of this section are now superseded by similar provisions in ss. 9, 12, of the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41). See note to sect. 19, *supra*.

Sect. 21. Note.

It is doubtful whether the provisions of this section are still in force. (See note to sect. 19, *supra*.)

Sect. 22.

of the inhabitants thereof for the execution of the laws for the relief of the poor, or for the consideration of any matter or question in relation thereto, in like manner as the inhabitants of the said parish.

No owner not being the occupier shall be rated in places where the right of voting for members of Parliament depends on the rating. Mode of rating not to be varied.

XXIII. Provided that nothing in this Act contained shall extend or be construed to extend to give any power or authority to assess the owner (not being the occupier) of any house, apartment, or dwelling in any city, borough, or town corporate, in which the right of voting for the election of members to serve in Parliament shall depend upon the assessment of the voter to the poor's rate, or to vary or affect the manner of assessing and charging any of the inhabitants or occupiers of houses, lands, or tenements, within any such city, borough, or town corporate.

Where persons refuse to quit parish houses, &c., justices may cause possession thereof to be delivered to the churchwardens and overseers.

XXIV. [*Recital that difficulties have arisen by the refusal of persons admitted to parish houses to quit the same.*] If any person who shall have been permitted to occupy any parish or town house, or any other tenement, or dwelling belonging to or provided by or at the charge of any parish for the habitation of the poor thereof, or who shall have unlawfully intruded himself or herself into any such house, tenement, or dwelling, or into any house, tenement, or hereditament belonging to such parish, shall refuse or neglect to quit the same, and deliver up the possession thereof to the churchwardens and overseers of the poor of any such parish, within one month after notice and demand in writing for that purpose, signed by such churchwardens and overseers or the major part of them, shall have been delivered to the person in possession, or in his or her absence affixed on some notorious part of the premises, it shall be lawful for any two of His Majesty's justices of the peace, upon complaint to them made by one or more of the churchwardens and overseers of the poor of the parish in which any such house, tenement, or dwelling shall be situated, to issue their summons to the person against whom such complaint shall be made, to appear before such justices at a time and place to be appointed by them, and to cause such summons

---

Sect. 22. Note.

As to the power of the owner when rated to appeal, see now the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 13.

Sect. 23. Note.

The provisions of this section appear to be superseded by the provisions of sect. 7 of the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), which enacts that payment of rates by the owner shall be deemed payment by the occupier for the purpose of any qualification or franchise which as regards rating depends upon the payment of the poor rate.

Sect. 24. Note.

A pauper who had been permitted to occupy a parish house went away from home: *Held* that the overseers might lawfully enter and resume possession without giving any notice to quit, and were not bound to pursue the mode prescribed by this section (*Wildbore*

to be delivered to the party against whom the complaint shall be made, or in his or her absence to be affixed on the premises, seven days at the least before the time appointed for hearing such complaint; and such justices are hereby empowered and required, upon the appearance of the defendant, or upon proof on oath that such summons hath been delivered or affixed as is hereby directed, to proceed to hear and determine the matter of such complaint, and if they shall find and adjudge the same to be true, then by warrant under their hands and seals to cause possession of the premises in question to be delivered to the churchwardens and overseers of the poor of the parish, or to some of them. Sect. 24.

XXV. If any person to whom any land appropriated, purchased, or taken under the authority of this Act, for the employment of the poor of any parish, or to whom any other lands belonging to such parish, or to the churchwardens and overseers thereof, or to either of them, shall have been let for his or her own occupation, shall refuse to quit and to deliver up the possession thereof to the churchwardens and overseers of Where persons to whom parish lands have been let refuse to give up the same, justices may cause

---

v. *Rainsforth*, 8 B. & C. 4; 2 M. & Ry. 185). So a pauper put into a cottage by parish officers may be turned out without proceedings in ejectment (*Fox* v. *Oakley*, Peake's Add. Cas. 214). Sect. 24. Note.

Personal service of notice to quit under this or the following section is not necessary (*Appleton* v. *Morrey*, 2 F. & F. 167; 2 L. T. (N. S.) 516; 8 W. R. 653).

A person had for twenty-three years been in possession of a tenement claimed by a parish, during the last three of which he had paid rent. He was then expelled under a justices' warrant, and subsequently again let into possession by the parish. *Held* that he was not liable to be evicted by a warrant of two justices under this section (*Reg.* v. *Middlesex JJ.*, 7 D. P. C.; 4 Jur. 123).

If an order under this or the following section is correct in form, and made on a proper information summons and hearing, the court will not inquire into the reasonableness of the decision of the justices either on affidavit, or on the evidence returned with the proceedings on a *certiorari* (*Reg.* v. *Bolton*, 1 Q. B. 66; 4 P. & D. 697).

The justices have jurisdiction under this section to issue their warrant notwithstanding a claim of title (*Ex parte Vaughan*, L. R. 2 Q. B. 114; 36 L. J. M. C. 17; S. C. *Reg.* v. *Brecknockshire JJ.*, 7 B. & S. 902). The jurisdiction of the justices, however, in issuing their warrant, cannot be exercised without their first deciding whether the tenements are parish property or not; and if there be conflicting evidence on that preliminary point, the justices have not only power to decide, but their finding will not be disturbed by a superior court on *certiorari* (*Reg.* v. *Llanfillo JJ.*, 15 L. T. (N. S.) 277; 31 J. P. 7).

Similar powers for the recovery of poor allotments are given by the Allotments Act, 1832 (2 & 3 Will. 4, c. 42), s. 6; and the provisions of this section are extended to the recovery of property belonging to unions by the Unions and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 5. Sect. 25. Note.

Sect. 25.

possession thereof to be delivered to the churchwardens and overseers.

the poor of such parish, at the expiration of the term for which the same shall have been demised or let to him or her; or if any person or persons shall unlawfully enter upon or take or hold possession of any such land, or any other land or hereditaments belonging to such parish or to the churchwardens or overseers, or to either of them; it shall be lawful for such churchwardens and overseers of the poor, or any of them, after such notice and demand of possession as is by this Act directed in the case of parish houses, to exhibit a complaint against the person or persons in possession of such land before two of His Majesty's justices of the peace, who are hereby authorized and required to proceed thereon and to hear and determine the matter thereof, and, if they shall find and adjudge the same to be true, to cause possession of such land to be delivered to the churchwardens and overseers of the poor, or some of them, in such and the like course and manner as are by this Act directed with regard to parish houses.

Justices in petty sessions empowered to order relief by parents, &c., as justices in quarter sessions by 43 Eliz. c. 2.

XXVI. [*Recital of* 43 *Eliz. c.* 2, *s.* 7.] It shall be lawful for any two or more of His Majesty's justices of the peace, for the county or other jurisdiction in which any such sufficient person shall dwell, and they are hereby empowered, in any petty session, to make such assessment and order for the relief of every poor, old, blind, lame, impotent, or other poor person not able to work, upon and by the father, grandfather, mother, grandmother, or child (being of sufficient ability), of every such poor person, as may by virtue of the said Act be made by the justices in their general quarter sessions; and that every such assessment and order of two or more justices in any petty sessions shall have the like force and effect as if the same were made by the justices in their general quarter session; and the disobedience thereof shall be punishable in like manner.

[Sect. 27. *Cases in which relief may be ordered in parishes incorporated under* 22 Geo. 3, c. 83, *without previous application to visitor:* Repealed by S. L. R. Act, 1873.]

Justices may take examination

XXVIII. It shall be lawful for any justice of the peace to take in writing the examination on oath of any person having a

---

Sect. 26.

Note.

This section is stated in the Revised Statutes to be repealed by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 36, but that section only repeals so much as enables orders of maintenance to be made by the justices having jurisdiction in the place where the persons upon whom they are made dwell, and as prescribes the penalty for disobedience; and enacts that such orders shall be made by the justices in petty sessions, assembled at their usual place of meeting having jurisdiction in the union or parish in which the poor person in whose behalf the same shall be sought to be made, shall be chargeable and shall be enforced in manner prescribed by 11 & 12 Vict. c. 43, for enforcing the order of justices.

wife or child who shall be a prisoner in any gaol or house of correction, or in the custody of the keeper of any such gaol or house of correction, or who shall be in the custody of any constable or other peace officer, by virtue of any warrant of commitment, touching the place of his or her last legal settlement; and such examination shall be signed by such justices taking the same, and shall be received and admitted in evidence as to such settlement before any justices for the purpose of any order of removal, so long only as the person so examined shall continue a prisoner.

Sect. 28. of prisoners as to their settlements, which shall be evidence thereof.

[Sect. 29. *Overseers empowered in certain cases to give relief by way of loan only.* Sect. 30. *Pensions for service in the navy, army, &c., may be assigned in certain cases for the indemnity of parishes.* Sect. 31. *Justices may order payment to overseers of the pensions, &c., of persons leaving their families chargeable.* Sect. 32. *Justices empowered to order payment of seamen's wages for the indemnity of parishes.* Sect. 33. *Power to remove chargeable poor born in Scotland, Ireland, &c., although they have not committed any act of vagrancy.* Sect. 34. *Scotch and Irish vagrants may be removed without being whipped or imprisoned:* Repealed by the S. L. R. Act, 1873.]

XXXV. All powers and authorities by this Act given to and vested in justices of the peace shall be exercised and executed by such justices within the limits of their respective commissions and jurisdictions, and not elsewhere; and all provisions, clauses, authorities, and directions in this Act contained in relation to parishes shall extend and be construed to extend to all townships, vills, and places having separate overseers of the poor, and maintaining their poor separately; and all acts and duties required or authorized by this Act to be done and executed by churchwardens and overseers of the poor, may in every parish be performed, exercised, and executed by the major part of the churchwardens and overseers of the poor thereof; and in townships, vills, and places which have no churchwarden, the same may be performed, exercised, and executed by the overseers of the poor thereof, or the major part of them; and all the powers, provisions, and clauses in this Act contained which relate to vestries or to the inhabitants of any parish in vestry assembled, shall be construed to extend to all meetings of the inhabitants of any township, vill, or place having separate overseers of the

Justices to act within their respective jurisdictions.

Provisions relating to parishes shall extend to townships, &c.

Majority of churchwardens and overseers may act.

Powers given to vestries shall extend to meetings of townships, &c.

Sect. 28. Note.

Where the examination of a prisoner taken in January, 1845, whilst he was under sentence of transportation, was offered in evidence in June in the same year, the court held that it could not be received without evidence that he was still a prisoner (*Reg.* v. *Widdescombe-in-the-Moor*, 9 Q. B. 394; 16 L. J. M. C. 44; 2 N. S. C. 539; 11 Jur. 227).

Sect. 35. Note.

Jurisdiction in matters relating to the poor law is conferred upon justices of the peace in cities and boroughs by the Poor Law (Overseers) Act, 1849 (12 & 13 Vict. c. 8), the Poor Law (Justices Jurisdiction) Act, 1849 (12 & 13 Vict. c. 64), and the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 158. And by the

Sect. 36.

poor, and maintaining its poor separately, to be held after due and legal notice for carrying into execution the laws for the relief of the poor, as fully as if in every such provision and clause they were severally and respectively named and repeated.

Saving for provisions of 22 Geo. 3, c. 83, where the provisions of that Act are adopted.

Saving for provisions of local Acts.

XXXVI. Provided that nothing in this Act contained shall extend or be construed to extend . . . to take away, abridge, alter, prejudice, or affect any of the powers or provisions of any special or local Act or Acts, for the maintenance, relief, or regulation of the poor in any city, town, hundred, district, parish, or place; so nevertheless that in every city, town, hundred, district, parish, or place, such of the clauses, directions, and powers in this Act contained, as are not repugnant to nor incompatible with the provisions . . . of such respective special or local Acts, shall have the like force and effect and may be adopted and applied in like manner as in other parishes and places: Provided also, that nothing in this Act contained shall extend or be construed to extend to alter, affect, or disturb any select vestry which in any parish has been established and acted upon by virtue of any ancient usage or custom.

Saving as to select vestries.

This Act to extend to England only.

XXXVII. This Act shall extend only to that part of the United Kingdom called England.

VESTRIES ACT, 1819.

59 GEO. III., CHAP. 85.

An Act to amend and correct an Act of the last Session of Parliament for the Regulation of Parish Vestries in England.* [7th July, 1819.]

[*Preamble recited* 58 *Geo.* 3, *c.* 69.]

[Owners who pay rates in respect of small tenements under the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict.

* The whole of this Act, so far as it relates to parish meetings under the Local Government Act, 1894 (56 & 57 Vict. c. 73), is repealed by sect. 89 of that Act.

Sect. 35. Note.

Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 27, where a union extends into several jurisdictions, every matter, act, charge, or complaint by which the guardians are affected, or in which they have any interest, shall for the purpose of jurisdiction be deemed to arise or exist equally throughout the union.

As to the powers given to vestries, see the Vestries Acts, 1818 and 1819 (58 Geo. 3, c. 69; 59 Geo. 3, c. 85).

Sect. 36. Note.

The portions of this section which are omitted referred to the repealed Statute 22 Geo. 3, c. 83, known as Gilbert's Act, and are repealed by the S. L. R. Act, 1873.

c. 41), ss. 3, 4, have no right as such to attend or vote at vestry meetings, the rates being, by sect. 7, constructively paid by the occupiers for the purpose of any qualification or franchise (*Mogg* v. *Clarke*, 16 Q. B. D. 79; 53 L. T. (N. S.) 890; 53 J. P. 342).]

Sect. 2.

Clerks or agents of corporations, &c., may vote in such vestries according to the value of the premises rated.

II. In all cases where any corporation or body politic or corporate or company shall be charged to the rate for the relief of the poor of such parish, either in the name of such corporation or of any officer of the said corporation, it shall and may be lawful for the clerk, secretary, steward, or other agent duly authorized for that purpose of such corporation or body politic or corporate or company, to be present at any vestry to be holden in the said parish under the said recited Act; and such clerk, secretary, steward, or agent shall be entitled to give such and so many vote or votes at such vestry in respect of the amount of the rent, profit, or value of such lands, tenements, or hereditaments, as by the said Act any inhabitant assessed to such rate present at such vestry might or ought to have and be entitled to in respect of such amount; any thing in the said recited Act to the contrary in anywise notwithstanding.

Non-payment of rates to disqualify from being present or voting in vestries.

III. [*Recital: that it was intended by* 58 *Geo.* 3, *c.* 69, *s.* 3, *to be enacted that no person should be present or vote at any vestry who should have refused to pay any assessment that had become due and been demanded of such person, but that the word "and" was so inserted as to make the enactment ambiguous.*] No person who shall have refused or neglected to pay any rate for the relief of the poor, which shall be due from and shall have been demanded of him, shall be entitled to vote or to be present in any vestry of the parish for which such rate shall have been made, until he shall have paid the same; nor shall any such clerk, secretary, steward, or agent be entitled to be present or to vote, nor shall be present or vote, at any vestry in such parish, unless all rates for the relief of the poor which shall have been assessed and charged upon or in respect of the annual rent, profit, or value, in right of which any such clerk, secretry, steward, or agent shall claim to be present and vote, which shall be due and which shall have been demanded at any time before the meeting of such vestry, shall have been paid and satisfied.

POOR RELIEF (No. 2) ACT, 1819.

59 GEO. III., CHAP. 95.

An Act for confirming ancient Separations of Towns Corporate from Parishes, in regard to the Maintenance of the Poor.

[12th July, 1819.]

WHEREAS various towns corporate or franchises situate within one or more parish or parishes, and not co-extensive with the

Sect. 3.

Note.

By the Vestries Act, 1853 (16 & 17 Vict. c. 65), s. 1, it is provided that rates which have become due less than three months previous to a vestry meeting need not be paid before voting thereat.

said parish or parishes, have heretofore and for a long time past been separately assessed from the parish or parishes in which they are situate for the relief of the poor, and overseers of the poor for such town or franchise have been appointed distinct and apart from the overseers of the poor appointed for such parish or parishes: . . .

Sect. 1.

Separation of certain towns, &c., from parishes and distinct appointment of overseers to be deemed lawful as if made under 43 Eliz. c. 2; provided such separation has not commenced within sixty years before passing of this Act.

[I.] All such separation of towns corporate or franchises from the parish or parishes in which they are situate, together with the separate and distinct appointment of overseers of the poor, shall be deemed and taken to be lawful to all intents and purposes whatsoever, in the same manner as if the said separation or division had taken place under the authority of an Act made in the forty-third year of the reign of Queen Elizabeth, intituled "An Act for the Relief of the Poor": Provided always, nevertheless, that nothing in this Act contained shall render legal or confirm any separation of a town corporate or franchise from the parish or parishes in which such town corporate or franchise is situate in respect to the maintenance of the poor or the appointment of overseers of the poor, in any case where it shall appear that such separation has commenced within sixty years before the passing of this Act.

POOR LAW (APPEAL) ACT, 1820.

1 GEO. IV., CHAP. 36.

An Act for allowing Appeals from Towns Corporate and Franchises in Certain Cases to the General or Quarter Sessions of the Peace of the Counties in which they are situate.

[8th July, 1820.]

[*Preamble recited* 17 *Geo.* 2, *c.* 38, *s.* 5, *which amends* 43 *Eliz. c.* 2.]

Sect. 1.

Note.

The appointment of separate overseers for vills and townships in large parishes was authorized by the Poor Relief Act, 1662 (13 & 14 Car. 2, c. 12), s. 21, and is now prohibited by the Poor Relief Act, 1848 (7 & 8 Vict. c. 101), s. 22. The appointment of separate overseers for divided parishes is, however, sanctioned by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 6.

This Act (59 Geo. 3, c. 95) was passed to remedy the result of the decision of the King's Bench in *Rex* v. *Gordon*, 1 B. & Ald. 524. In that case a parish contained within itself a borough not co-extensive with it, and the mayor of the borough, on a return to a *mandamus* to allow a poor rate made by the churchwardens and overseers of the whole parish, stated a custom which had existed since 43 Eliz. c. 2, of appointing separate churchwardens and overseers, and of making separate poor rates for the borough, and for those parts of the parish which lay without the borough; it was held that such custom was invalid, and the return was quashed accordingly.

Sect. 1.

Appeal to quarter sessions of county, &c., where any corporation, &c., has not more than six justices nor two parishes, &c., within it.

[I.] In all corporations and franchises not having more than six justices of the peace, nor having jurisdiction or authority over two or more whole parishes or wards contained within such corporation or franchise, it shall and may be lawful for any person or persons, in any of the cases mentioned or referred to by the said Act or Acts, or either of them, where an appeal is given by the said Act or Acts, or either of them, to appeal, if he, she, or they shall think fit, to the next general or quarter sessions of the peace for the county, riding, or division wherein such corporation or franchise is situate, in as ample manner as if such corporation or franchise had not four justices of the peace: Provided always, that nothing herein contained shall be deemed or taken to extend to any city or town corporate, being a county of itself.

TURNPIKE ROADS ACT, 1822.

3 GEO. IV., CHAP. 126.

An Act to amend the general laws now in being for Regulating Turnpike Roads in that Part of Great Britain called England. [6th August, 1822.]

[The section here printed is the only one in this lengthy Act which relates to the poor law; it is not contained in the Revised Statutes, as it is declared by the S. L. R. Act, 1890, to be local and personal.]

* * * * *

No person to gain a settlement by renting tolls or by residence in toll-houses.

LI. No collector or person renting such tolls, or residing in such toll-house as aforesaid, and no apprentice or servant of any such collector or person, shall thereby gain a settlement in any parish or place whatsoever; and no tolls to be taken at any gate erected or to be erected by the trustees or commissioners of any turnpike road, nor toll-house erected or to be erected for the purpose of collecting the same, nor any person in respect of such tolls or toll-house, shall be rated or assessed towards the payment of any poor rates, or any other public or parochial levy whatsoever.

* * * * *

Sect. 1.

Note.

In boroughs within the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), to which a separate court of quarter sessions is granted the appeal is now necessarily to the quarter sessions of the borough (see sect. 165 of that Act, and *Reg.* v. *Suffolk JJ.*; *Reg.* v. *Shropshire JJ.*; *Reg.* v. *Lancashire JJ.*, 2 Q. B. 85; 10 L. J. M. C. 138). But this section is still in force as to any corporation or franchise not within the Act of 1882.

Where a parish was partly in a borough, and partly in the adjoining county, and an occupier of premises in that part of the parish which was in the county appealed to the sessions for the county against a rate made for the whole parish on the ground that occupiers of premises in that part of the parish which was within the borough were not sufficiently rated, it was held that the appeal was rightly brought to the county sessions (*Reg.* v. *Bridgewater*, 10 A. & E. 711; 3 Jur. 1123; and see *Reg.* v. *Salop JJ.*, [1855] 24 L. J. M. C. 14).

VAGRANCY ACT, 1824.

5 GEO. IV., CHAP. 83.

An Act for the Punishment of Idle and Disorderly Persons, and Rogues and Vagabonds, in that part of Great Britain called England. [21st June, 1824.]

[*Preamble recited* 3 *Geo.* 4, *c.* 40.]

[Sect. 1. *Repeal of previous enactments.* Sect. 2. *Repeal of such provisions of* 32 *Geo.* 3, *c.* 45, *as gave power of passing convicts on discharge from prison*: Repealed by the S. L. R. Act, 1875.]

Persons refusing to maintain themselves and families, or leaving place to which they were removed, and unlicensed pedlars, prostitutes, and beggars shall be deemed idle and disorderly persons, and may be imprisoned for one month with hard labour.

III. Every person being able wholly or in part to maintain himself or herself, or his or her family, by work or by other means, and wilfully refusing or neglecting so to do, by which refusal or neglect he or she, or any of his or her family whom he or she may be legally bound to maintain, shall have become chargeable to any parish, township, or place; every person returning to and becoming chargeable in any parish, township, or place from whence he or she shall have been legally removed by order of two justices of the peace, unless he or she shall produce a certificate of the churchwardens and overseers of the poor of some other parish, township, or place, thereby acknowledging him or her to be settled in such other parish, township, or place; every petty chapman or pedlar wandering abroad, and trading without being duly licensed, or otherwise authorized by law; every common prostitute wandering in the public streets or public highways, or in any place of public resort, and behaving in a riotous or indecent manner; and every person wandering abroad, or placing himself or herself in any public place, street, highway, court, or passage, to beg or gather alms, or causing or procuring or encouraging any child or children so to do; shall be deemed an idle and disorderly person within the true intent and meaning of this Act; and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him by his own view, or by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses), to the house of correction, there to be kept to hard labour for any time not exceeding one calendar month.

Sect. 3.

Note.

Further provision for compelling a man to maintain his wife and family is made by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 33, as amended by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 19.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 6, a mother neglecting to maintain her bastard child, being able so to do, whereby the child becomes chargeable, is punishable as an idle

Sect. 3.

Note.

and disorderly person under this section. By sect. 59 of the same Act the costs of prosecuting persons charged under this section with refusing or neglecting to maintain themselves and family may be paid by the guardians out of the poor rates.

Paupers in a workhouse refusing to do a task of work or destroying their clothes or injuring any property of the guardians, and casual paupers absconding or neglecting or refusing to do the prescribed task of work, or wilfully giving a false name or making a false statement for the purpose of obtaining relief, are to be deemed idle and disorderly persons within the meaning of this section (see the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 5, and the Pauper Inmates Discharge and Regulation Act, 1871 (34 & 35 Vict. c. 108), s. 7).

By the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 10, persons in possession of means applying for relief at any workhouse without making full disclosure of their means are liable to be convicted as idle and disorderly persons within the meaning of this section.

Refusal or neglect to maintain wife or family.

The provisions of this section do not extend to the case of a man whose wife has left him and committed adultery; in such a case he cannot be punished under this Act for refusing to contribute to her maintenance, even though he himself may have been guilty of adultery since she left him (*Rex* v. *Flintan*, 1 B. & Ad. 227; *Mitchell* v. *Torrington Union*, 76 L. T. 724; 61 J. P. 598).

Where a man refused to maintain his wife in the *bonâ fide* belief that she had committed adultery, and the justices dismissed a summons against him under this section on the ground that he had not "wilfully refused or neglected" to maintain her, it was held that the justices were right (*Morris* v. *Edmunds*, 77 L. T. 56).

A man being summoned under this section for refusing to maintain his child proved that he and his wife had separated three years before the birth of the child, and that since the separation his wife had led an immoral life and was a prostitute; the justices held that the presumption that the child was his was rebutted by this evidence, and dismissed the information. *Held* that they were right in so doing (*Sibbet* v. *Ainsley*, 3 L. T. (N. S.) 583; 24 J. P. 823).

A man being summoned under this section for not maintaining his wife offered to do so if she would come and live with him; this she refused, as he had assaulted her, and she was afraid to live with him; but he denied the assault, offered to take a house for her, and to undertake to treat her kindly and properly, to pay any sums the parish had advanced to her, and to pay the costs. The justices, however, convicted him. Upon a case stated, the Court of Queen's Bench quashed the conviction, holding that the facts did not show that there had been a wilful refusal or neglect within the meaning of the statute (*Flanagan* v. *Bishopwearmouth*, 8 E. & B. 451; 27 L. J. M. C. 46; 3 Jur. (N. S.) 1103; 6 W. R. 38).

A wife having applied for relief, the guardians summoned the husband under this section. It was proved that he was an able-bodied man and able to maintain his family if he chose, but he contended that he had received no notice of his wife's application for relief, that the proceedings were taken out of spite, and that he had offered to recoup the guardians, who refused to accept payment. The summons was dismissed, and on appeal it was held that there

Sect. 4.

Persons committing certain offences shall be deemed rogues and vagabonds and may be imprisoned for three months with hard labour.

IV.* Every person committing any of the offences hereinbefore mentioned, after having been convicted as an idle and disorderly person; every person pretending or professing to tell fortunes, or using any subtle craft, means or device, by palmistry or otherwise, to deceive and impose on any of His Majesty's subjects; every person wandering abroad and lodging in any barn or outhouse, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or waggon, not having any visible means of subsistence, and not giving a good account of himself or herself; every person wilfully exposing to view, in any street, road, highway, or public place, any obscene print, picture, or other indecent exhibition; every person wilfully, openly, lewdly, and obscenely exposing his person in any street, road, or public highway, or in the view thereof, or in any place of public resort, with intent to insult any female; every person wandering abroad, and endeavouring by the exposure of wounds or deformities to obtain or gather alms; every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent

* Amended in matters not connected with poor law by the Prevention of Crimes Act, 1871 (34 & 35 Vict. c. 112), s. 15, and the Penal Servitude Act, 1891 (54 & 55 Vict. c. 69), s. 7. Extended to Scotland and Ireland by 34 & 35 Vict. c. 112, s. 15.

Sect. 3.

Note.

was evidence on which it was rightly dismissed (*Reeve* v. *Eastwood*, 53 J. P. 134).

A father being summoned under this section in respect of his child, who had become chargeable, it was proved that he was an able-bodied man, but there was no evidence that he had got work to do or had ever refused work. *Held* that the justices were right in dismissing the summons (*Hosegood* v. *Camps*, 53 J. P. 612).

If at the hearing of a complaint under this section against a man for neglecting to maintain his wife the defendant disputes the marriage, it is the duty of the justices to try the question whether the parties are married, and if they refuse to do so a *mandamus* may issue requiring them to hear and determine the complaint (*Rex* v. *Cumberland JJ.*, 4 A. & E. 695).

Return to parish whence removed.

An order of removal does not prevent a pauper from returning to the parish from which he is removed so long as he does not return in a state of vagrancy (*Rex* v. *Fillongley*, 2 T. R. 709); and in a prosecution under 17 Geo. 2, c. 5, which contained similar provisions to those contained in this section, with respect to a person returning to a place from which he had been removed by order of the justices, it was held that the commitment must state that the pauper was chargeable (*Rex* v. *Angel*, Cas. temp. Hardw. 124). The onus, however, of showing that he was not in a state of vagrancy lay upon the person returning (*Mann* v. *Danvers*, 3 B. & Ald. 103).

Sect. 4.

Note.

See note to sect. 3, *supra*, for statutory extensions and applications of this section.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 59, the costs of prosecutions of persons charged under this

pretence; every person running away and leaving his wife, or his or her child or children, chargeable, or whereby she or they or any of them shall become chargeable, to any parish, township, or place; . . . every person having in his or her custody or possession any picklock key, crow, jack, bit, or other implement, with intent feloniously to break into any dwelling-house, warehouse, coach-house, stable, or outbuilding, or being armed with any gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, or having upon him or her any instrument, with intent to commit any felonious act; every person being found in or upon any dwelling-house, warehouse, coach-house, stable, or outhouse, or in any inclosed yard, garden, or area, Sect. 4.

---

section with running away and leaving their families chargeable may be paid by the guardians out of the poor rates. Sect. 4. Note.

The provisions of this section, which make it an act of vagrancy in a parent to desert a child, apply only to legitimate and not to illegitimate children (*Reg.* v. *Maude*, 11 L. J. M. C. 120; 6 Jur. 646). But now, by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 6, a mother is punishable as a rogue and vagabond for desertion of her bastard child.

A man leaving his wife cannot be convicted under this section unless the wife has become actually chargeable (*Heath* v. *Heape*, 1 H. & N. 478; 26 L. J. M. C. 49; 5 W. R. 23); and as, in order to constitute the offence, there must be a chargeability of the wife or children consequent on the running away, it is sufficient under the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), s. 11, if the information be laid within six months of the chargeability (*Reeve* v. *Yeates*, 1 H. & C. 435; 31 L. J. M. C. 241; 8 Jur (N. S.) 751; 10 W. R. 779).

Knowledge that the wife or children are, or reasonable expectation that they will become chargeable is necessary to constitute the offence. A man and wife separated by mutual consent, the wife being left in possession of sufficient means for her support. She afterwards became chargeable, and the man meanwhile committed bigamy. There was no evidence that the husband had any knowledge that his wife had become chargeable or reasonable expectation that she would become so. *Held* that he could not be convicted as a rogue and vagabond under this section (*Sweeney* v. *Spooner*, 3 B. & S. 329; 32 L. J. M. C. 82; 9 Jur. (N. S.) 691; 7 L. T. 623; 11 W. R. 264).

A married woman, who, deserted by her husband, and having no means of maintaining her children, leaves them so that they become chargeable, cannot be convicted as a rogue and vagabond under this section (*Peters* v. *Cowie*, 2 Q. B. D. 131; 46 L. J. M. C. 177; 36 L. T. 107).

A widow obtained an order for admission to a workhouse for herself and children. She took the children with the order from her usual place of residence to the gate of the workhouse, and leaving them there with the order, returned to her residence. *Held* that she could not be convicted as a rogue and vagabond under this section (*Reg.* or *Cambridge Union* v. *Parr*, 10 C. B. (N. S.) 99; 30 L. J. M. C. 241; 7 Jur. (N. S.) 1303; 4 L. T. (N. S.) 323; 9 W. R. 636).

Sect. 5.

for any unlawful purpose; every suspected person or reputed thief, frequenting any river, canal, or navigable stream, dock, or basin, or any quay, wharf, or warehouse near or adjoining thereto, or any street, highway, or avenue leading thereto, or any place of public resort, or any avenue leading thereto, or any street, highway, or place adjacent, with intent to commit felony; and every person apprehended as an idle and disorderly person, and violently resisting any constable, or other peace officer so apprehending him or her, and being subsequently convicted of the offence for which he or she shall have been so apprehended; shall be deemed a rogue and vagabond, within the true intent and meaning of this Act; and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses), to the house of correction, there to be kept to hard labour for any time not exceeding three calendar months; and every such picklock key, crow, jack, bit, and other implement, and every such gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, and every such instrument as aforesaid, shall, by the conviction of the offender, become forfeited to the King's Majesty.

Certain offenders shall be deemed incorrigible rogues and may be committed for trial at quarter sessions.

V. Every person breaking or escaping out of any place of legal confinement before the expiration of the term for which he or she shall have been committed or ordered to be confined by virtue of this Act; every person committing any offence against this Act which shall subject him or her to be dealt with as a rogue and vagabond, such person having been at some former time adjudged so to be, and duly convicted thereof; and every person apprehended as a rogue and vagabond, and violently resisting any constable or other peace officer so apprehending him or her, and being subsequently convicted of the offence for which he or she shall have been so apprehended; shall be deemed an incorrigible rogue within the true intent and meaning of this Act; and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses), to the house of correction, there to remain until the general quarter sessions of the peace; and every such offender who shall be so committed to the house of correction shall be there kept to hard labour during the period of his or her imprisonment.

Any person may apprehend offenders.

VI. It shall be lawful for any person whatsoever to apprehend any person who shall be found offending against this Act, and forthwith to take and convey him or her before some

---

Sect. 6.

Note.

A constable is not liable to conviction for refusing to apprehend, without a warrant, at the request of the relieving officer, a man

justice of the peace, to be dealt with in such manner as is herein-before directed, or to deliver him or her to any constable or other peace officer of the place where he or she shall have been apprehended, to be so taken and conveyed as aforesaid; and in case any constable or other peace officer shall refuse or wilfully neglect to take such offender into his custody, and to take and convey him or her before some justice of the peace, or shall not use his best endeavours to apprehend and to convey before some justice of the peace any person that he shall find offending against this Act, it shall be deemed a neglect of duty in such constable or other peace officer, and he shall on conviction be punished in such manner as is herein-after directed.

Sect. 6.

Constables, &c., refusing to apprehend, to be deemed guilty of neglect of duty.

[Sect. 7. *Justices may issue warrant to apprehend suspected persons:* Repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).]

VIII. It shall be lawful for any constable, peace officer, or other person apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, to take any horse, mule, ass, cart, car, caravan, or other vehicle or goods in the possession or use of such person, and to take and convey the same, as well as such person, before some justice of the peace, and for every justice of the peace by whom any person shall be adjudged to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, to order that such offender shall be searched, and that his or her trunks, boxes, bundles, parcels, or packages shall be inspected in the presence of the said justice, and of him or her, and also that any cart, car, caravan, or other vehicle which may have been found in his or her possession or use shall be searched in his or her presence; and it shall be lawful for the said justice to order that any money which may be then found with or upon such offender shall be paid and applied for and towards the expense of apprehending, conveying to the house of correction, and maintaining such offender during the time for which he or she shall have been committed; and if upon such search money sufficient for the purposes aforesaid be not found, it shall be lawful for such justice to order that a part, or, if necessary, the whole of such other effects then

Offenders may be searched and their trunks, bundles, &c., inspected.

Money and effects found upon offenders may be applied towards the expenses of apprehending them, &c.

---

charged by the officer with having wilfully neglected to support his wife and caused her to become chargeable to the parish; the person so charged not being, even if guilty, "found offending" within the meaning of this section (*Horley* v. *Rogers*, 2 E. & E. 674; 29 L. J. M. C. 140; 6 Jur. (N. S.) 605; 2 L. T. (N. S.) 171; 8 W. R. 392).

Sect. 6. Note.

By the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 10, persons professing to be destitute wanderers, applying at a workhouse for relief, may be searched, and any money found on them delivered to the guardians.

Sect. 8. Note.

Sect. 8.

found shall be sold, and that the produce of such sale shall be paid and applied as aforesaid, and also that the overplus of such money or effects, after deducting the charges of such sale, shall be returned to the said offender.

Justices shall bind persons by recognizances to prosecute incorrigible rogues, &c., at quarter sessions.

IX. When any justice as aforesaid shall commit any such incorrigible rogue to the house of correction, there to remain till the next general or quarter sessions, or when any such idle and disorderly person, rogue, and vagabond, or incorrigible rogue, shall give notice of his or her intention to appeal against the conviction of him or her, and shall enter into recognizance as hereinafter directed to prosecute such appeal, such justice shall require the person by whom such offender shall be apprehended, and the person or persons whose evidence shall appear to him to be material to prove the offence and to support such conviction, to become bound in recognizance to His Majesty, to appear at the said general or quarter sessions, to give evidence against such offender touching such offence; and the justices of the peace at their said general or quarter sessions are hereby authorized and empowered, at the request of any person who shall have become bound in any such recognizance, to order the treasurer of the county, riding, division, or place in which the offence shall have been committed to pay unto such prosecutor, and unto the witness or witnesses on his or her behalf, such sum or sums of money as to the court shall seem reasonable and sufficient to reimburse such prosecutor and such witness or witnesses respectively for the expenses he, she, or they shall have been severally put to, and for his, her, or their trouble and loss of time in and about such prosecution; which order the clerk of the peace is hereby directed and required forthwith to make out and deliver unto such prosecutor, or unto such witness or witnesses, upon being paid for the same the sum of two shillings and no more; and the said treasurer is hereby authorized and required, upon sight of such order, forthwith to pay unto such prosecutor, or other person or persons authorized to receive the same, such money as aforesaid, and the said treasurer shall be allowed the same in his account; and in case any such person or persons as aforesaid shall refuse to

Quarter sessions may order payment of expenses to prosecutors and witnesses.

Persons refusing to enter into

Sect. 9.

Note.

A county borough had a separate commission of the peace but not a separate court of quarter sessions. An appeal from a conviction under this Act by the borough justices having been successfully brought to the quarter sessions for the county, an order was made by quarter sessions upon the borough treasurer for payment of the prosecutor's costs. *Held* that the word "place" in this section must be construed as *ejusdem generis* "with county, riding, division," and meant a place having a separate court of quarter sessions, and that the order of quarter sessions was therefore wrongly made upon the borough treasurer, and should have been made upon the treasurer of the county (*Reg.* v. *Yorks. W. R. JJ.*, [1900] 1 Q. B. 291; 69 L. J. Q. B. 13).

enter into such recognizance, it shall be lawful for such justice to commit such person or persons so refusing to the common gaol, there to remain until he, she, or they shall enter into such recognizance, or shall be otherwise discharged by due course of law.

Sect. 10. recognizances may be committed.

X. When any incorrigible rogue shall have been committed to the house of correction, there to remain until the next general or quarter sessions, it shall be lawful for the justices of the peace there assembled to examine into the circumstances of the case, and to order, if they think fit, that such offender be further imprisoned in the house of correction, and be there kept to hard labour for any time not exceeding one year from the time of making such order, and to order further, if they think fit, that such offender (not being a female) be punished by whipping, at such time during his imprisonment, and at such place within their jurisdiction, as according to the nature of the offence they in their discretion shall deem to be expedient.

Quarter sessions may sentence incorrigible rogues to one year's imprisonment with hard labour, &c.

XI. In case any constable or other peace officer shall neglect his duty in anything required of him by this Act, or in case any person shall disturb or hinder any constable or other peace officer in the execution of this Act, or shall be aiding, abetting, or assisting therein, and shall be thereof convicted upon the oath of one or more credible witness or witnesses before one or more justice or justices of the peace where such offence shall be committed, every such offender shall for every such offence forfeit any sum not exceeding five pounds. . . .

Penalty on constables, &c., neglecting their duty and on persons hindering them in discharge thereof.

XII. In case any constable or other peace officer shall be convicted before any one or more justice or justices of the peace for any neglect of any duty required of him by this Act, or of any disobedience of any lawful warrant or order of any justice or justices of the peace issued under the provisions of this Act, and in case any two or more justices of the peace shall impose any fine, or direct any penalty to be paid by such officer, under and by virtue of the powers given to justices of the peace by an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, intituled "An Act to authorize justices of the peace to impose fines upon constables, overseers, and other peace or parish officers, for neglect of duty, and on masters of apprentices for ill-usage of such their apprentices, and also to make provision for the execution of warrants of distress granted by magistrates," or under any other powers enabling such justices in that behalf, then and in every such case it shall be lawful for such justice or justices, upon conviction

When constables, &c., are convicted for neglect of duty and fined under 33 Geo. 3, c. 55, &c., justices may allow expenses of prosecution.

Sect. 11. Note.

The latter portion of this section as to enforcement of penalties by distress and imprisonment is repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).

Sect. 12.

of any such offender, to reimburse and allow to the person or persons on whose complaint or information such offender shall have been convicted all necessary costs and expenses which such person or persons may thereby have incurred, or by any appeal made in consequence thereof by making an order under his or their hands and seals upon the treasurer of the county, riding, division, or place, to pay to such person or persons the amount of such costs and expenses, on producing the said order, and giving a receipt for the same, and the same shall be allowed the said treasurer in his account.

Lodging-houses, &c., suspected of concealing offenders may be searched, and offenders brought before a justice.

XIII. It shall be lawful for any justice of the peace, upon information on oath before him made, that any person hereinbefore described to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, is or is reasonably suspected to be harboured or concealed in any house kept or purporting to be kept for the reception, lodging, or entertainment of travellers, by warrant under his hand and seal to authorize any constable or other person or persons to enter at any time into such house, and to apprehend and bring before him or any other justice of the peace every such idle and disorderly person, rogue and vagabond, and incorrigible rogue, as shall be found therein, to be dealt with in the manner hereinbefore directed.

Persons aggrieved may appeal to the next quarter sessions.

XIV. Any person aggrieved by any act or determination of any justice or justices of the peace out of sessions, in or concerning the execution of this Act, may appeal to the next general or quarter sessions for the county, riding, division, or place in and for which such justice or justices shall have so acted, giving to the justice or justices of the peace whose act or determination shall be appealed against notice in writing of such appeal, and of the ground thereof, within seven days after such act or determination, and before the next general or quarter sessions, and entering within such seven days into a recognizance, with sufficient surety, before a justice of the peace . . .

This Act not to prevent visiting justices of gaols, &c., from granting certificates to enable persons discharged

XV. Provided always, that nothing herein contained shall extend or be construed to extend so as to restrain, hinder, or prevent any visiting justice of any county gaol, house of correction, or other prison, from granting a certificate or other instrument for enabling any person discharged from a county gaol, house of correction, or other prison, to have or receive alms or relief in or upon his or her route to his or her place of settlement; provided that such certificate be made and drawn

---

Sect. 14. Note.

The latter part of this section as to discharging out of custody the person entering into recognizances is repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).

Sect. 15.

rrom prison to receive alms or relief on their route to their place of settlement.

up in compliance with the directions and provisions of any Act or Acts of Parliament for the better regulation and management of gaols, houses of correction, or prisons: and if any person to whom any such certificate or instrument shall be delivered shall act in any manner contrary to the directions or provisions of such certificate or instrument, or shall loiter upon his or her route, or shall deviate therefrom, every such person shall be and be deemed to be a rogue and vagabond within the provisions and directions of this Act, and shall be punished accordingly.

Justices not to grant certificates enabling persons to ask alms on route.

Persons asking alms to be deemed idle and disorderly.

XVI. No justice of the peace, mayor, or other magistrate shall grant to any person, . . . any certificate or other instrument enabling such person to ask alms or relief in their route to any place, or for any other purpose whatever; and every person asking alms or relief under and by virtue of any certificate or other instrument hereby prohibited is liable to be declared to be an idle and disorderly person, in like manner as if he or she had possessed no such certificate or other instrument as aforesaid.

[Sect. 17. *Form of conviction under the Act:* Repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43).]

Justices, &c., to have treble costs if judgment be in their favour.

XVIII. In all cases where an action shall be brought against any justice of the peace, constable, or other person, for or on account of any matter or thing whatsoever done or commanded by him in the execution of his duty or office under this Act, such justice, constable, or other person, if he shall have judgment in his favour, shall have treble costs awarded to him by the court, unless the judge shall certify that there was a reasonable cause for such action.

[Sect. 19. *Limitation of actions:* Repealed by the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61).]

Persons convicted under this Act to be chargeable to

XX. Every person who under the provisions of this Act shall have been convicted as an idle and disorderly person, or as a rogue and vagabond, shall be deemed to be actually chargeable to the parish, township, or place in which such person shall

---

Sect. 16. Note.

The provisions in this section exempting soldiers, sailors, and mariners from its operation was repealed by 48 & 49 Vict. c. 39, s. 8.

Sect. 18. Note.

This section is repealed in general terms by the Limitation of Actions and Costs Act, 1842 (5 & 6 Vict. c. 97), s. 2.

Sect. 20. Note.

It is not necessary to prove relief in order to show chargeability where a person has been convicted under sects. 3 or 4 of this Act. See also the Poor Removal Act, 1795 (35 Geo. 3, c. 101), s. 5.

Sect. 20.

the parish in which they reside, &c.

reside; and such person shall be liable to be removed to the parish of his or her last legal settlement, by the order of two justices of the peace of the division or place in which such person shall reside.

Persons committing offences under former Vagrant Acts to be punished under this Act.

XXI. Provided always, that wherever by any Act or Acts of Parliament now in force it is directed that any person shall be punished as an idle and disorderly person, or as a rogue and vagabond, or as an incorrigible rogue, for any offence specified in such Act or Acts, and not herein-before provided for by this Act, in every such case, whether such person shall or shall not have committed any offence against this Act, every such person shall be punished under the provisions, powers, and directions of this Act.

This Act not to extend to Scotland or Ireland, &c.

XXII. Provided also, that nothing herein contained shall be construed to extend or apply to Scotland or Ireland, nor to alter any law now in force for the removal of poor persons born in Scotland, Ireland, or the Isles of Man, Jersey, and Guernsey, and becoming chargeable to parishes in England, such persons not having committed acts of vagrancy as herein-before described, nor to alter any law now in force relating to lunatic vagrants.

JURIES ACT, 1825.

6 GEO. IV., CHAP. 50.

An Act for consolidating and amending the Laws relative to Jurors and Juries. [22nd June, 1825.]

[This Act imposes duties upon overseers, &c., with regard to preparing jury lists, determines the qualification of jurors, and provides for the summoning and impanelling of juries. Only so much is printed here as has some reference to the duties of overseers. The Act is amended by the Juries Act, 1862 (25 & 26 Vict. c. 107), and the Juries Act, 1870 (33 & 34 Vict. c. 77). By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (2) (b), references in this Act to "churchwardens and overseers" must, as respects any rural parish, be construed as references to the "overseers."]

Qualification of jurors in England in superior courts at

[I.] Every man, except as herein-after excepted, between the ages of twenty-one years and sixty years, residing in any county in England, who shall have in his own name or in trust for him, within the same county, ten pounds by the year, above

---

Sect. 22.

Note.

So much of this Act as relates to the removal of poor persons born in the Isles of Jersey and Guernsey, and being chargeable to parishes in England, is repealed by 11 Geo. 4 & 1 Will. 4, c. 15, s. 1. So much as relates to the removal of poor persons born in Scotland and Ireland, and being chargeable to parishes in England, is repealed by 3 & 4 Will. 4, c. 40, s. 1.

reprizes, in lands or tenements, whether of freehold, copyhold, or customary tenure, or of ancient demesne, or in rents issuing out of any such lands or tenements, or in such lands, tenements, and rents taken altogether, in fee simple, fee tail, or for the life of himself or some other person, or who shall have within the same county twenty pounds by the year, above reprizes, in lands or tenements, held by lease or leases for the absolute term of twenty-one years, or some longer term, or for any term of years determinable on any life or lives, or who being a householder shall be rated or assessed to the poor rate, or to the inhabited house duty in the county of Middlesex, on a value of not less than thirty pounds, or in any other county on a value of not less than twenty pounds, or who shall occupy a house containing not less than fifteen windows, shall be qualified and shall be liable to serve on juries for the trial of all issues joined in any of the King's Courts of Record at Westminster, and in the superior courts, both civil and criminal, of the three counties palatine, and in all courts of assize, such issues being respectively triable in the county in which every man so qualified respectively shall reside, and shall also be qualified and liable to serve on grand juries in courts of sessions of the peace, and on petty juries, for the trial of all issues joined in such courts of sessions of the peace, and triable in the county, riding, or division in which every man so qualified respectively shall reside ; . . .

Sect. 1.

Westminster and in counties palatine, and in courts of assize and courts of sessions of the peace.

* * * * *

V. Every such clerk of the peace shall cause a sufficient number of warrants, precepts, and returns to be printed, according to the several forms set forth in the schedule hereunto annexed, at the expense of the county, riding, or division. . . .

Clerk of the peace to annex a sufficient number of printed forms of precepts and returns to his warrants.

VI. Within fourteen days after the receipt of such warrant of the clerk of the peace every high constable shall issue and deliver his precept (in the form set forth in the schedule hereunto annexed, or as near thereto as may be), together with a competent number of the printed forms of returns, to the churchwardens

High constables to issue precepts to churchwardens and overseers within their

---

Sect. 5.

Note.

The forms of warrant and precept in the schedule are repealed by the S. L. R. Act, 1875, being replaced by the forms in the schedule to the Juries Act, 1862 (25 & 26 Vict. c. 107). The duties of the clerk of the peace hereunder are now performed by the clerk of the county council (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 83 (6)).

Sect. 6.

Note.

So much of this Act as relates to high constables is repealed by the Juries Act, 1862 (25 & 26 Vict. c. 107), and the duties of the high constable hereunder are transferred to the clerk of the peace. By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 83 (6), such duties are now performed by the clerk of the county council.

Sect. 6.

constable-wicks, commanding them to make out the jury lists.

and overseers of the poor of the several parishes, and to the overseers of the poor of the several townships within his constablewick, requiring them by such precept to prepare and make out a true list of all men residing within their respective parishes and townships, qualified and liable to serve as jurors as aforesaid, and to perform and comply with all the requisitions in the said precept contained: [*Repealed by* 38 *&* 39 *Vict. c.* 66 (*S. L. R.*)] . . .

Proviso where there are no overseers.

provided also, that where in any parish there shall be no overseers of the poor, other than the churchwardens, such churchwardens shall be deemed and taken to be the churchwardens and overseers of the poor of such parish within the meaning of this Act, to all intents and purposes; . . .

* * * * *

Churchwardens and overseers to make out lists of persons qualified to serve on juries, with their residences, titles, &c.

VIII. The churchwardens and overseers of every parish and the overseers of every township within the meaning of this Act shall forthwith, after the receipt of such precept from the high constable, prepare and make out in alphabetical order a true list of every man residing within their respective parishes or townships who shall be qualified and liable to serve on juries as aforesaid, with the christian and surname written at full length, and with the true place of abode, the title, quality, calling, or business, and the nature of the qualification of every such man, in the proper columns of the form of return set forth in the schedule hereunto annexed.

Copies of lists to be fixed on church doors, with notice of time and place for hearing objections.

IX. The churchwardens and overseers of each parish and the overseers of each township, having made out according to this Act a list of every man qualified and liable to serve on juries as aforesaid, shall, on the three first Sundays in the month of September, fix a true copy of such list upon the principal door of every church, chapel, and other public place of religious worship within their respective parishes or townships, having first subjoined to every such copy a notice, stating that all objections to the list will be heard by the justices of the peace at a time and place to be mentioned in such notice, and having also signed their names at the foot of such copy, and shall likewise keep the original list, or a true copy thereof, to be perused by any of the inhabitants of their respective parishes or townships, at any reasonable time during the three first weeks of the month of September, without any fee or reward, to the end

Original lists or copies to be kept by churchwardens, &c., for inspection.

Sect. 8.

Note.

By the Juries Act, 1862 (25 & 26 Vict. c. 107), s. 6, the words "clerk of the peace" are to be read in this section in the place of "high constable," and now by the Local Government Act, 1888, s. 83 (6), the clerk of the county council performs the duties, &c., of the clerk of the peace in respect of jury lists.

In any parish where there is a vestry clerk appointed under the Vestries Act, 1850 (13 & 14 Vict. c. 57), it is, by sect. 7 of that Act, his duty to prepare the jury lists.

Sect. 9.

that notice may be given of men qualified who are omitted, or of men inserted who ought to be omitted out of such list; and the churchwardens and overseers of each parish and the overseers of each township are hereby authorized to cause a sufficient number of copies of such lists, for the purposes aforesaid, to be printed at the expense of their respective parishes or townships.

Petty sessions to be held in the last week of September.

X. The justices of the peace in every division in England and Wales shall hold a special petty sessions for the purposes herein mentioned, within the last seven days of September in every year, on some day and at some place, of which notice shall be given by their clerk, before the twentieth day of August next preceding, . . . to the churchwardens and overseers of every parish and to the overseers of every township within such division; and the churchwardens and overseers of each parish and the overseers of each township shall then and there produce the list of men qualified and liable to serve on juries as aforesaid within their respective parishes or townships, by them prepared and made out as herein-before directed, and shall answer upon oath such questions touching the same as shall be put to them, or any of them, by the justices then present; and if any man not qualified and liable to serve on juries as aforesaid is inserted in any such list, it shall be lawful for the said justices, upon satisfaction from the oath of the party complaining, or other proof, or upon their own knowledge, that he is not qualified and liable to serve on juries, to strike his name out of such list, and also to strike thereout the names of men disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body, from serving on juries; and it shall also be lawful for such justices to insert in such list the name of any man omitted therein, and likewise to reform any errors or omissions which shall appear to them to have been committed in respect to the name, place of abode, title, quality, calling, business, or the nature of the qualification of any man included in any such list: Provided always, that no man's name, if omitted, shall be inserted in such list, nor shall any error or omission in the description of any man in such list be reformed by the said justices, unless upon the application of such men respectively, or unless such men respectively shall have had notice that an application for such purpose would be made to the justices at such petty sessions, or unless the said justices at such sessions, or any two of them, shall cause notice

Lists to be there produced, considered, reformed, and allowed.

Petty sessions not to alter any list without notice to the party to be affected by the alterations.

Sect. 10.

Note.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 60, the expenses of parish officers in making out jury lists may be paid out of the poor rates, but by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 32, the justices (now by the Local Government Act, 1888, ss. 30, 84, the Standing Joint Committee) are to make allowances to clerks of justices for their services in respect of jury lists payable out of the county fund (see *Reg.* v. *Haslingfield*, L. R. 9 Q. B. 203; 43 L. J. Q. B. 38; 29 L. T. (N. S.) 801; 38 J. P. 203).

Sect. 10.

to be given to such men respectively, requiring them to show cause, at some adjournment of such petty sessions, to be holden within four days thereafter, why their names should not be inserted in such list, or why any error or omission in the description of such men in such list should not be reformed;

Power of adjournment.

and when every such list shall be duly corrected at such sessions, or at such adjournment thereof, it shall be allowed by the justices present, or two of them, at such sessions, or such adjournment, who shall sign the same, with their allowance thereof; *and the high constable shall receive every list so allowed, and deliver the same to the court of quarter sessions next holden for the county, riding, or division, on the first day of its sitting.* . . . [The words printed in italics are repealed by the S. L. R. Act, 1875.]

Tax assessments and poor rates to be inspected for the purpose of completing or reforming the lists.

XI. The respective churchwardens and overseers of every parish and the overseers of every township shall, for their assistance in completing the lists, pursuant to the intent of this Act, upon request made by them or any of them at any reasonable time between the first day of July and the first day of October in every year, to any collector or assessor of taxes, or to any other officer having the custody of any duplicate or tax assessment for such parish or township, have free liberty to inspect any such duplicate or assessment, and take from thence the names of such men qualified to serve on juries, dwelling within their respective parishes or townships, as may appear to them or any of them to be necessary or useful; and every court of petty sessions and justice of the peace shall, upon the like request to any collector or assessor of taxes, or any other officer having the custody of any duplicate or tax assessment, or to any churchwarden or churchwardens or overseer or overseers having the custody of any poor rate within their respective divisions, have the like free liberty to inspect and make extracts from any such duplicate, tax assessment, or poor rate, for the purpose of assisting them in the reformation and completion of the jury lists within their respective divisions.

* * * * *

Penalties on churchwardens and overseers for neglecting to make out lists, &c.

XLV. If any churchwarden or overseer of any parish or any overseer of any township within the meaning of this Act shall refuse or neglect (unless prevented by sickness) to assist in making out any list required by this Act, so that the same shall not be made out at the time and in the manner hereinbefore directed; or shall wilfully omit out of such list any man whose name ought to be inserted therein, or shall wilfully insert therein the name of any man who ought to be omitted, or shall take any money or other reward for omitting or inserting any man whatsoever, or shall wilfully insert therein a wrong

Sect. 45.

Note.

For "high constable" in this section now read "clerk of the peace" (Juries Act, 1862 (25 & 26 Vict. c. 107), ss. 3, 4, 6).

Sect. 45.

description of the name, place of abode, title, quality, calling, business, or the nature of the qualification of any man; or shall refuse or neglect, in case the number of forms of return delivered by the high constable shall be insufficient, to apply to the high constable for a sufficient number, so that the list may be made out at the time and in the manner herein-before directed; or shall refuse or neglect to fix a copy of such list duly signed, or to subjoin thereto such notice as herein-before required, on the principal door of any church, chapel, or other public place of religious worship within their respective parishes or townships, on any of the Sundays on which the same ought to be so fixed; or shall refuse to allow any inhabitant of their respective parishes or townships to inspect such list, or a true copy thereof, gratis, at any reasonable time during the three weeks herein-before mentioned; or shall, on due notice, refuse or neglect to produce such list at such petty sessions as aforesaid, or to answer on oath such questions touching the same as shall there be put, or to attend at such petty sessions, or any such adjournment thereof as aforesaid; or shall refuse to allow the said petty sessions, or any justice of the peace, upon due request, to inspect or make any extracts from the poor rate of any parish or township within their respective divisions, for the purposes herein-before mentioned, such rate being in the custody of the party so refusing; every such churchwarden or overseer offending in any of the foregoing cases shall for every such offence forfeit a sum not exceeding ten pounds nor less than forty shillings, at the discretion of the justice before whom he shall be convicted; and the justice before whom such offender shall be convicted of any such offence of wrongful insertion or omission shall forthwith, in writing under his hand, certify the same to the clerk of the peace of the county, riding, or division in which the man or men so wrongfully omitted or inserted shall reside, and the said clerk of the peace shall cause the list in which such wrongful insertion or omission shall have occurred to be corrected according to such certificate, and shall also give notice thereof to the sheriff or under-sheriff, who shall correct the jurors book accordingly.

* * * * *

POOR RELIEF SETTLEMENT ACT, 1825.

6 GEO. IV., CHAP. 57.

An Act for the Amendment of the Law respecting the Settlement of the Poor, as far as regards renting Tenements and paying Parochial Taxes. [22nd June, 1825.]

WHEREAS the settlement of the poor has been made, in some instances, to depend upon the annual value of tenements which

they may have rented, or upon the annual value of tenements in virtue of which they have paid parochial rates: And whereas the ascertaining such value, in such respective cases, has given rise to very expensive litigation: And whereas doubts have been entertained, whether an Act made in the fifty-ninth year of King George the Third, intituled "An Act to amend the Laws respecting the Settlement of the Poor, as far as regards renting Tenements," has been effectual for the purpose of altering the law in respect of the necessity of proving the annual value of tenements so rented; and it is expedient that further provision be made relating thereto.

5 Geo. 3, c. 50.

[Sect. 1. *Repeal of* 59 *Geo.* 3, *c.* 50: Repealed by the S. L. R. Act, 1873.]

No settlement by renting or paying rates for a tenement, unless it be rented, at 10*l.* at least, for one whole year.

II. No person shall acquire a settlement in any parish or township maintaining its own poor by or by reason of settling upon, renting or paying parochial rates for any tenement, not being his or her own property, unless such tenement shall consist of a separate and distinct dwelling-house or building, or of land, or of both, *bonâ fide* rented by such person, in such parish or township, at and for the sum of ten pounds a year at the least, for the term of one whole year; nor unless such house or building or land shall be occupied under such yearly hiring, and the rent for the same, to the amount of ten pounds, actually paid, for the term of one whole year at the least: Provided always, that it shall not be necessary to prove the actual value of such tenement; anything in any Act or Acts, or any construction of or implication from any Act or Acts, or any usage or custom to the contrary notwithstanding.

CRIMINAL LAW ACT, 1826.

7 GEO IV., CHAP. 64.

An Act for improving the Administration of Criminal Justice in England. [26th May, 1826.]

[This Act makes provision for the procedure to be adopted in respect of indictments for various felonies and misdemeanours, as well as for the place of trial and the allowance of costs of prosecution. Only so much of the Act as affects poor law authorities or

---

Sect. 2. Note.

This Act is explained and amended by the Poor Relief (Settlement) Act, 1831 (1 Will. 4, c. 18). All decisions upon settlement by renting a tenement, which are now of utility, involve questions upon the construction of the latter Act, and are consequently noted under that Act.

Decisions upon settlement by payment of parochial taxes are noted at 3 Wm. & M. c. 11, s. 6.

the poor rates, or is necessary to make such part intelligible, is printed here.]

* * * * *

Sect. 16.

Property ordered for the use of the poor of parishes, &c., may be laid in the overseers.

XVI. In any indictment or information for any felony or misdemeanour committed in, upon, or with respect to any workhouse or poorhouse, or on or with respect to any goods or chattels whatsoever, provided for the use of the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places, or to be used in any workhouse or poorhouse in or belonging to the same, or by the master or mistress of such workhouse or poorhouse, or by any workmen or servants employed therein, it shall be sufficient to state any such property to belong to the overseers of the poor for the time being of such parish or parishes, township or townships, hamlet or hamlets, place or places, and it shall not be necessary to specify the names of all or any of such overseers; and in any indictment or information for any felony or misdemeanour committed on or with respect to any materials, tools, or implements provided for making, altering, or repairing any highway within any parish, township, hamlet, or place, otherwise than by the trustees or commissioners of any turnpike road, it shall be sufficient to aver that any such things are the property of the surveyor or surveyors of the highways for the time being of such parish, township, hamlet, or place, and it shall not be necessary to specify the name or names of any such surveyor or surveyors.

Materials, &c., for repairing highways may be laid to be the property of the surveyor of highways.

* * * * *

Courts may order payment of the expenses of prosecutions in all cases of felony.

XXII. The court before which any person shall be prosecuted or tried for any felony is hereby authorized and empowered at the request of the prosecutor, or of any other person, who shall appear on recognizance or subpœna to prosecute or give evidence against any person accused of any felony, to order payment unto the prosecutor of the costs and expenses which such prosecutor shall incur in preferring the indictment, and also payment to the prosecutor and witnesses for the prosecution of such sums of money as to the court shall seem reasonable and sufficient to reimburse such prosecutor and witnesses for the expenses they shall have severally incurred in attending before the examining

---

Sect. 16. Note.

The property in goods provided for the use of the poor is vested in the overseers by the Poor Relief Act, 1815 (55 Geo. 3, c. 137), s. 1. By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 5 (2) (c), in rural parishes the legal interest in all property vested in overseers is vested in the parish council, or by sect. 19 (7), in small parishes, in the chairman of the parish meeting and overseers. As, however, this section is not repealed, it would appear to be still sufficient and proper to describe in an indictment the property mentioned in this section as the property of the overseers.

Sect. 22. Note.

As to when payment of these costs may be made out of the poor rate, see sect. 25, *infra*.

Sect. 22.

Allowance to persons attending on recognizance, where no bill is preferred.

magistrate or magistrates and the grand jury, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein; and, although no bill of indictment be preferred, it shall still be lawful for the court, where any person shall in the opinion of the court, *bonâ fide* have attended the court in obedience to any such recognizance or subpœna, to order payment unto such person of such sum of money as to the court shall seem reasonable and sufficient to reimburse such person for the expenses which he or she shall have *bonâ fide* incurred by reason of attending before the examining magistrate or magistrates, and by reason of such recognizance or subpœna, and also to compensate such person for trouble and loss of time; and the amount of the expenses of attending before the examining magistrate or magistrates, and the compensation for trouble and loss of time therein; shall be ascertained by the certificate of such magistrate or magistrates, granted before the trial or attendance in court, if such magistrate or magistrates shall think fit to grant the same; and the amount of all the other expenses and compensation shall be ascertained by the proper officer of the court, subject nevertheless to the regulations to be established in the manner herein-after mentioned.

Courts may order payment of the expenses of prosecution or of allowance to persons attending on recognizances in certain cases of misdemeanour.

XXIII. Where any prosecutor or other person shall appear before any court on recognizance or subpœna, to prosecute or give evidence against any person indicted of any assault with intent to commit felony, of any attempt to commit felony, of any riot, of any misdemeanour for receiving any stolen property, knowing the same to have been stolen, of any assault upon a peace officer in the execution of his duty, or upon any person acting in aid of such officer, of any neglect or breach of duty as a peace officer, of any assault committed in pursuance of any conspiracy to raise the rate of wages, of knowingly and designedly obtaining any property by false pretences, of wilful and indecent exposure of the person, of wilful and corrupt perjury, or of subornation of perjury, every such court is hereby authorized and empowered to order payment of the costs and expenses of the prosecutor and witnesses for the prosecution, together with a compensation for their trouble and loss of time, in the same manner as courts are herein-before authorized and empowered to order the same in cases of felony; and, although no bill of indictment be preferred, it shall still be lawful for the court, where any person shall have *bonâ fide* attended the court in obedience to any such recognizance, to order payment of the expenses of such person, together with a compensation for his or her trouble and loss of time, in the same manner as in cases of felony: . . .

* * * * *

Sect. 23.

Note.

As to when payment of these costs may be made out of the poor rate, see sect. 25, *infra*.

Sect. 25.

XXV. And whereas felonies and such misdemeanours as are herein-before enumerated may be committed in liberties, franchises, cities, towns, and places which do not contribute to the payment of any county rate, some of which raise a rate in the nature of a county rate, and others have neither any such rate, nor any fund applicable to similar purposes, and it is just that such liberties, franchises, cities, towns, and places should be charged with all costs, expenses, and compensations ordered by virtue of this Act, in respect of felonies and such misdemeanours committed therein respectively: Be it therefore enacted, that all sums directed to be paid by virtue of this Act, in respect of felonies and of such misdemeanours as aforesaid, committed or supposed to have been committed in such liberties, franchises, cities, towns, and places, shall be paid out of the rate in the nature of a county rate, or out of any fund applicable to similar purposes, where there is such a rate or fund, by the treasurer or other officer having the collection or disbursement of such rate or fund; and where there is no such rate or fund in such liberties, franchises, cities, towns, or places, shall be paid out of the rate or fund for the relief of the poor of the parish, township, district, or precinct therein, where the offence was committed or supposed to have been committed, by the overseers or other officers having the collection or disbursement of such last-mentioned rate or fund: and the order of court shall in every such case be directed to such treasurer, overseers, or other officers respectively, instead of the treasurer of the county, riding, or division, as the case may require.

How the expenses shall be paid in places not contributing to the county rate.

* * * * *

DISTRESS (COSTS) ACT, 1827.

7 & 8 GEO. IV., CHAP. 17.

An Act to extend the Provisions of an Act made in the Fifty-seventh Year of King George the Third, for regulating the Costs of certain Distresses. [28th May, 1827.]

WHEREAS by an Act passed in the fifty-seventh year of the reign of His late Majesty King George the Third, intituled "An Act to Regulate the Costs of Distresses levied for Payment of small Rents," certain regulations are made with respect to the costs and charges of levying and disposing of such distresses where the sum demanded and due shall not exceed twenty pounds: And whereas it is expedient that the said Act should be amended, by extending the same to distresses for other causes:

57 Geo. 3, c. 93.

Sect. 25.

The "misdemeanours herein-before enumerated" are those mentioned in sect. 23, *supra*.

Note.

Provisions of recited Act extended to distresses for taxes, rates, tithes, &c., where the sum due does not exceed 20*l*.

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that all the rules, regulations, clauses, provisions, penalties, matters, and things in the said Act contained shall extend and be construed to extend, and shall be applied and put in execution, so far as the same are applicable and capable of being put in execution, with respect to any distress or levy which shall be made for any land tax, assessed taxes, poor's rates, church rates, tithes, highways rates, sewer rates, or any other rates, taxes, impositions, or assessments whatever, in all cases where the sum demanded and due for or in respect of such taxes, rates, tithes, assessments or impositions shall not exceed the sum of twenty pounds, and in all cases where the whole of the several sums sought to be levied by distresses taken for different purposes at the same time shall not exceed the sum of twenty pounds ; and that such costs and charges, and no other, shall be taken and payable as the costs and charges of the levy and disposition of such distresses ; and that all such proceedings shall and may be had and taken against any and every person transgressing the regulations of the said Act in the levying or distraining for any such taxes, rates, impositions, or assessments, and all such persons shall be liable to and shall incur such and the like penalties, as by the said Act are directed, required, and imposed with respect to persons making any distress for rent contrary to the directions of the said Act; and that in any order or judgment of any justices before whom any complaint shall be preferred in consequence of this Act, such order shall be expressed to be made upon a complaint for the breach of the said recited Act as amended by this Act ; and that the said recited Act and this Act shall be taken and construed together as one Act, to all intents and purposes whatsoever.

Note. The Distress (Costs) Act, 1817 (57 Geo. 3, c. 93), *ante*, p. 320, makes provision for a scale of charges for distresses for small amounts and gives remedy for excessive charges. For the procedure to be observed in distraining for poor rates, see the Distress for Rates Act, 1849 (12 & 13 Vict. c. 14), and notes thereto.

METROPOLITAN POLICE ACT, 1829.

10 GEO. IV., CHAP. 44.

An Act for improving the Police in and near the Metropolis.
[19th June, 1829.]

[This Act imposes duties upon overseers with regard to the collection of police rates, akin to their duties in respect of poor rates, and is printed here for the sake of reference.]

WHEREAS offences against property have of late increased in and near the metropolis; and the local establishments of nightly watch and nightly police have been found inadequate to the prevention and detection of crime, by reason of the frequent unfitness of the individuals employed, the insufficiency of their number, the limited sphere of their authority, and their want of connection and co-operation with each other: and whereas it is expedient to substitute a new and more efficient system of police in lieu of such establishments of nightly watch and nightly police, within the limits herein-after mentioned, and to constitute an office of police, which, acting under the immediate authority of one of His Majesty's principal Secretaries of State, shall direct and control the whole of such new system of police within those limits: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that it shall be lawful for His Majesty to cause a new police office to be established in the city of Westminster, and by warrant under his sign manual to appoint two fit persons as justices of the peace of the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and of all liberties therein, to execute the duties of a justice of the peace at the said office, and in all parts of those several counties, and the liberties therein, together with such other duties as shall be herein-after specified, or as shall be from time to time directed by one of His Majesty's principal Secretaries of State, for the more efficient administration of the police within the limits herein-after mentioned; and His Majesty may remove either of the said justices, if he shall see occasion so to do, and may, upon any vacancy in the said office by death, removal, or otherwise, appoint another fit person as a justice of the peace of the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and of all liberties therein, to execute the duties aforesaid, in lieu of the person making such vacancy; and it shall be lawful for His Majesty to appoint any person to be a justice of the peace by virtue of this Act, and for such person, during the continuance of his appointment, to execute the duties of a justice of the peace for the several counties of Middlesex, Surrey, Hertford, Essex, and Kent, and for all liberties therein, although he may not

His Majesty may establish a new police office for the metropolis and the surrounding district, and may appoint two persons as justices, to administer the police under the directions of a Secretary of State.

The justice may act as such for Middlesex, Surrey, Hertford, Essex, and

Sect. 1.

Kent, without any qualification of estate;

but only for prevention of crime, &c., and to carry out this Act.

have any such qualification by estate as is required by law in the case of any other person being a justice of the peace for any county: Provided always that no such person shall act as a justice of the peace at any court of general or quarter sessions, nor in any matter out of sessions, except for the preservation of the peace, the prevention of crimes, the detection and committal of offenders, and in carrying into execution the purposes of this Act.

Oath to be taken by the justices.

II. Every person to be appointed a justice of the peace by virtue of this Act shall, before he shall begin to execute the duties of his office, take the following oath before some justice or baron of one of His Majesty's Courts of Record at Westminster; (that is to say,)

"I, A. B., do swear, that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute all the powers and duties of a justice of the peace, under and by virtue of an Act passed in the tenth year of the reign of King George the Fourth, intituled 'An Act for improving the Police in and near the Metropolis.'"

[Sect. 3: Repealed by the S. L. R. Act, 1873.]

Westminster, and parts of Middlesex, Surrey, and Kent, specified in the schedule, to be formed into one district, to be called "the metropolitan police district," and a police force for the whole district to be appointed, with the powers, &c., of constables in the five home counties.

IV. The whole of the city and liberties of Westminster, and such of the parishes, townships, precincts, and places, in the counties of Middlesex, Surrey, and Kent, as are enumerated in the schedule to this Act, shall be constituted, for the purposes of this Act, into one district, to be called "The Metropolitan Police District;" and a sufficient number of fit and able men shall from time to time, by the directions of one of His Majesty's principal Secretaries of State, be appointed as a police force for the whole of such district, who shall be sworn in by one of the said justices to act as constables for preserving the peace, and preventing robberies and other felonies, and apprehending offenders against the peace; and the men so sworn shall, not only within the said district, but also within the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and within all liberties therein, have all such powers, authorities, privileges, and advantages, and be liable to all such duties and responsibilities, as any constable duly appointed now has or hereafter may have within his constablewick by virtue of the common law of this realm, or of any statutes made or to be made, and shall obey all such lawful commands as they may from time to time receive from any of the said justices for conducting themselves in the execution of their office.

The justices, subject to the approbation of a Secretary of State, may

V. The said justices may from time to time, subject to the approbation of one of His Majesty's principal Secretaries of State, frame such orders and regulations as they shall deem expedient, relative to the general government of the men to be

Sect. 5.

appointed members of the police force under this Act; the places of their residence; the classification, rank, and particular service of the several members; their distribution and inspection; the description of arms, accoutrements, and other necessaries to be furnished to them; and which of them shall be provided with horses for the performance of their duty; and all such other orders and regulations, relative to the said police force, as the said justices shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties; and the said justices may at any time suspend or dismiss from his employment any man belonging to the said police force whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same; and when any man shall be so dismissed, or cease to belong to the said police force, all powers vested in him as a constable by virtue of this Act shall immediately cease and determine.

make regulations for the management of the police force.

Policemen may be suspended or dismissed by the justices.

VI. If any victualler or keeper of any house, shop, room, or other place, for the sale of any liquors, whether spirituous or otherwise, shall knowingly harbour or entertain any man belonging to the said police force, or permit such man to abide or remain in his house, shop, room, or other place, during any part of the time appointed for his being on duty, every such victualler or keeper as aforesaid, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as they shall think meet.

Penalty on publicans harbouring policemen during the hours of duty.

VII. It shall be lawful for any man belonging to the said police force, during the time of his being on duty, to apprehend all loose, idle, and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs.

Powers of police as to arrests.

[Sect. 8: Repealed by the S. L. R. Act, 1873.]

IX.* Where any person charged with any petty misdemeanour shall be brought, without the warrant of a justice of the peace, into the custody of any constable appointed under this Act, during his attendance in the night-time at any watch-house within the Metropolitan Police District, it shall be lawful for such constable, if he shall deem it prudent, to take bail by recognizance, without any fee or reward, from such person, conditioned that such person shall appear for examination before a justice of the peace, at some place to be specified in the recognizance, at the hour of ten in the forenoon next after such recognizance shall be taken, unless that hour shall fall on a Sunday, or on Christmas Day or Good Friday, and in that case

Constables attending at the watch-houses in the night may take bail by recognizance from persons brought before them for petty misdemeanours: such

* Sect. 9: Repealed by the S. L. R. Act, 1873, but revived by the S. L. R. Act, 1878.

Sect. 9.

recognizance to be conditioned for the appearance of the parties before a magistrate.

at the like hour on the succeeding day; and every recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if the same had been taken before a justice of the peace; and the constable shall enter, in a book to be kept for that purpose in every watch-house, the names, residence, and occupation of the party, and his surety or sureties, if any, entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required, or within one hour after, the justice shall cause a record of the recognizance to be drawn up, to be signed by the constable, and shall return the same to the next general or quarter sessions of the peace, with a certificate at the back thereof, signed by such justice, that the party has not complied with the obligation therein contained; and the clerk of the peace shall make the like estreats and schedules of every such recognizance as of recognizances forfeited in the sessions of the peace; and if the party not appearing shall apply, by any person on his behalf, to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognizance to such further time as he shall appoint; and when the matter shall be heard and determined, either by the dismissal of the complaint, or by binding the party over to answer the matter thereof at the sessions, or otherwise, the recognizance for the appearance of the party before a justice shall be discharged without fee or reward.

In default of appearance, recognizance to be estreated.

Time of hearing may be postponed.

Discharge of recognizance when matter determined.

His Majesty may appoint a person to be the receiver of all monies applicable to the purposes of this Act.

X. It shall be lawful for His Majesty to appoint a proper person to receive all sums of money applicable to the purposes of this Act, who shall be called "The Receiver for the Metropolitan Police District;" and His Majesty may remove any such receiver if he shall see occasion so to do, and may, upon any vacancy in that office by death, removal, or otherwise, appoint another person to be such receiver; . . . and the receiver for the time being shall receive all sums of money applicable to the purposes of this Act, and shall keep an exact and particular account thereof, and shall immediately pay all monies, bills, and notes by him received under this Act into the hands of the governor and company of the Bank of England; and the same shall be placed to an account in the books of the said governor and company, which shall be entitled "The Account of the Public Monies of the Receiver for the Metropolitan Police District," . . . and the said receiver shall draw out of the bank from time to time such sums of money as may be necessary for the payment of the salaries, wages, and allowances to be paid as herein-after mentioned to the persons belonging to the police force appointed under this Act, and also for the payment of all

Money received to be placed in the Bank of England, and drawn out by the receiver.

Sect. 10.

other charges and expenses in carrying this Act into execution; and every draft or order for money on the Bank of England, drawn by the receiver shall be countersigned by one of the justices appointed under this Act; and all drafts and orders so drawn and countersigned, but not otherwise, shall be a sufficient authority to the bank to pay the amount thereof to the persons named in them, or to the bearers of them.

Receiver's drafts to be countersigned by one of the justices.

XI. The receiver shall account for the due application of all monies so to be drawn by him out of the Bank of England, and shall, once in every six months, and oftener if required by one of His Majesty's principal Secretaries of State, make out and sign a full and particular account of all monies which shall have been received by him under this Act, and how much thereof hath been paid by him, and for what purposes, together with proper vouchers for the receipts and payments; and such account shall be delivered, for the purpose of being examined and audited, either to the commissioners for auditing the public accounts of this kingdom, or to any other person or persons whom such principal Secretary of State may from time to time direct; and the receiver, if directed to account before the said commissioners, shall be subject to the same regulations and penalties in that respect as any public accountant.

Receiver's accounts to be audited.

XII. The receiver, out of the monies so received by him, . . . shall from time to time pay to the persons belonging to the police force appointed under this Act such salaries, wages, and allowances, and at such periods, as one of His Majesty's principal Secretaries of State shall direct, and also any extraordinary expenses which they shall appear to have necessarily incurred in apprehending offenders and executing the orders of either of the justices appointed under this Act, such expenses being first examined and approved of by one of the said justices; and the receiver shall likewise pay any further sums which such principal Secretary of State shall direct to be paid to any of the persons belonging to the said police force, as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received, or shall be worn out by length of service; and he shall also pay all other charges and expenses which such principal Secretary of State shall direct to be paid for carrying this Act into execution.

Receiver to pay salaries, &c., of policemen, to be regulated by the Secretary of State, and expenses, and rewards for activity, compensation for wounds, and superannuation allowances.

[Sect. 13: Repealed by the S. L. R. Act, 1873.]

XIV. If any person having resigned or having been removed from the office of receiver shall neglect, within twenty-one days after notice for such purpose, to account for and pay to any succeeding receiver all such sums of money as shall remain in his hands applicable to the purposes of this Act, it shall be

Upon the removal of the receiver, his successor may sue for any balance remaining in his hands.

Sect. 14.

lawful for the receiver for the time being, in his own proper name only, or by his name and description of office, to sue for and recover the same from such person, *with double costs of suit*, in any of His Majesty's Courts of Record at Westminster, by action of debt; in which action it shall be sufficient for such receiver to declare as for money had and received to the use of such receiver for the purposes of this Act; and the defendant in the action may at the discretion of any judge of such court, be held to special bail in such competent sum as the judge shall order; and the court in which the action shall be brought may, at the instance of either of the parties, refer the account in dispute in a summary manner to be audited by any officer of the court or other fit person, who may examine both plaintiff and defendant upon oath (which oath the said referee shall have power to administer); and upon the report of such referee, unless either of the parties shall show good cause to the contrary, the court may make a rule, either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the court shall appear reasonable, or the court may order judgment to be entered up by confession, for such sum as upon the report shall appear to be due.

Mode of proceeding.

Special bail.

Court may refer the accounts to an officer or arbitrator.

[The provision in this section as to double costs is repealed by 5 & 6 Vict. c. 97, s. 2.]

Mode of proceeding against the representatives of a deceased receiver.

XV. In case of the death of any person during the time that he shall be holding the office of receiver, or after he shall have resigned or been removed from such office, the receiver for the time being may, in his own proper name only, or by his name and description of office, sue for and recover from the executors or administrators of such person deceased all such sums of money as shall have been remaining in his hands applicable to the purposes of this Act, by an action of debt in any of His Majesty's Courts of Record at Westminster; in which action it shall be sufficient for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act, whereby an action hath accrued to the plaintiff to demand and have the same from such executors or administrators; and the like action may be brought against any executors or administrators of executors or administrators; and in all such actions the defendant or defendants may plead in like manner, and avail themselves of the like matters in defence, as in any action founded upon simple contracts of the original testator or intestate; and the court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as is herein-before mentioned; and in all actions to be brought, as well as in all proceedings whatsoever to be instituted or carried on, by any receiver by virtue of this Act, proof of his acting in the

Proof of the receiver's official character.

execution of the office of receiver shall be sufficient evidence of his holding such office, unless the contrary shall be shown in evidence by the defendants in such actions, or the parties against whom such proceedings shall be instituted or carried on.

The receiver shall contract for any land or buildings that may be required.

XVI. The receiver for the time being shall make all such contracts and disbursements as shall be necessary for purchasing or renting any land or buildings, or for erecting, fitting up, furnishing, or repairing any buildings, for the purposes of this Act, in such manner as one of His Majesty's principal Secretaries of State shall direct; and of all lands and buildings so to be purchased or rented, and of the fixtures and furniture thereof, and of all goods and chattels whatsoever to be from time to time held or purchased for the purposes of this Act, the property acquired therein shall be vested in the receiver for the time being, in whom also shall be vested the property of all watch-houses, watch-boxes, arms, accoutrements, and other necessaries, to be given up as herein-after mentioned; and the receiver for the time being may, by the directions of such principal Secretary of State, sell, assign, or dispose of the whole or any part of any such property as aforesaid, and shall execute all such lawful matters for carrying this Act into execution as such principal Secretary of State shall from time to time direct.

The property to be vested in him.

Power to sell, &c.

[So much of this section as relates to any police court, is repealed by 34 & 35 Vict. c. 35, s. 5.]

Corporations and others empowered to sell land to the receiver.

XVII. It shall be lawful for all bodies corporate, and also for all commissioners, vestrymen, or trustees for public purposes, and for tenants for life or in tail, and for the husbands, guardians, trustees, committees, or attornies, of such of the proprietors or persons interested in any lands or buildings required for the purposes of this Act as shall by reason of any legal disability or of absence beyond the seas be incapable of acting for themselves, to contract and agree with the receiver for the time being, either for the absolute sale of such lands or buildings, or for a lease thereof for such period as the receiver shall require, and to convey, demise, or grant the same to the receiver, in trust for the purposes of this Act; and all such contracts, sales, conveyances, leases, and grants, shall be valid and effectual in law to all intents and purposes; and in case any body corporate, commissioners, vestrymen, trustees, or other persons, hereby authorized to contract on behalf of themselves or others as aforesaid, shall neglect or refuse to agree with, or by reason of disability or absence shall be prevented from agreeing with, the receiver, for the sale or lease of any land or buildings required by him, or in case the proprietors or persons interested therein cannot be found or known, or shall not produce and evince a clear title to the land or buildings so to be purchased or rented, or to the interest they shall claim

In case of disagreement, &c., the value shall be assessed by a jury under 5 Geo. 4, c. 100.

Sect. 17.

therein, to the satisfaction of the receiver, in every such case all the provisions contained in an Act passed in the fifth year of His present Majesty's reign, intituled "An Act for more effectually paving, lighting, watching, cleansing, and regulating the Regent's Park, together with the new street from the Regent's Park to Pall Mall, and the new streets and improvement in the neighbourhood of Parliament Street and Privy Gardens, and for maintaining a convenient sewage for the same," with regard to the valuation of estates and interests by a jury, the conclusive effect of the verdict of the jury, and all matters preparatory to, concomitant with, and consequent or contingent upon, the valuation by a jury, shall, so far as the same are or can be applicable, be applied and extended to the valuation of any land or buildings required for the purposes of this Act, in as full and ample a manner to all intents and purposes as if those provisions had been repeated and expressly re-enacted in this Act; and all such matters as by those provisions of the said Act are authorized or required to be done by the sheriff of Middlesex and by a jury of Middlesex, or by the high bailiff of Westminster or his deputy and by a jury of Westminster, shall under this Act be done by the sheriff and a jury of Middlesex, if the premises to be valued are situate in Middlesex, and by the high bailiff or his deputy and a jury of Westminster, if the premises are situate in Westminster; and all such matters as by those provisions of the said Act are authorized or required to be done by the sheriff and a jury of the county of Middlesex shall, if the premises to be valued are situate in any other county, be done under this Act by the sheriff of such other county and by a jury qualified to try causes at Nisi Prius in such other county; and all such matters as by those provisions of the said Act are authorized or required to be done by the commissioners therein mentioned shall, under this Act, be done by the receiver for the time being.

No justice, &c., under this Act to sit in Parliament.

No justice, receiver, policeman, &c., appointed under this Act to canvass at certain elections.

Penalty, 100*l*.

XVIII. No justice of the peace or receiver appointed by virtue of this Act shall, during the continuance of such appointment, be capable of being elected or of sitting as a member of the House of Commons; and no justice, receiver, or person belonging to the police force, appointed by virtue of this Act . . . shall, by word, message, writing, or in any other manner, endeavour to persuade any elector to give, or dissuade any elector from giving, his vote for the choice of any person to be a member to serve in Parliament for any such county, city, or borough; and if any such justice, receiver, or person belonging to the police force shall offend therein, he shall forfeit the sum of one hundred pounds, to be recovered, by any person who will sue for the same, by action of debt, to be commenced within six calendar months after the commission of the offence; and one moiety of the sum so recovered shall be paid to the informer, and the other moiety thereof to the receiver appointed under this Act, to be by him added to and applied

Sect. 18.

as part of the funds for the purposes of the police under this Act: Provided always, that nothing in this enactment contained shall subject any such justice, receiver, or person belonging to the police force, to any penalty for any act done by him at or concerning any of the said elections in the discharge of his official duty. Proviso.

[*Sect.* 19 (*providing for the discontinuance of the night watch and night police, the cessation of their powers and of the powers for levying watch rates, the giving up of watch-houses, watch-boxes, arms, accoutrements, and other necessaries, with penalties for neglect*), *sect.* 20 (*as to watch rates already made*), *and sect.* 21 (*as to debts already incurred*) *repealed by the S. L. R. Act*, 1873.]

Power to set up watch-boxes.

XXII. The justices appointed under this Act, subject to the approbation of one of His Majesty's principal Secretaries of State, may order such a number of watch-boxes as they shall from time to time think fit to be placed or fixed in such parts of the highways in any of the parishes, townships, precincts, and places, within the metropolitan police district as the said justices shall deem most convenient.

The overseers in every parish, &c., in the metropolitan district shall by warrant of the justices be ordered to levy a police rate as part of the poor rate, and to pay the same to the receiver.

XXIII. As soon as the police to be appointed under this Act shall take charge of any parish, township, precinct, or place, whether parochial or extra-parochial, within the metropolitan police district, it shall be lawful for the justices appointed under this Act, forthwith, and so from time to time, subject to the approbation of one of His Majesty's principal Secretaries of State, to issue a warrant under their hands to the overseers of the poor of every such parish, township, precinct, or place; by which warrant they shall command the said overseers, out of the money collected for the relief of the poor in such parish, township, precinct, or place, to pay the amount mentioned in the warrant for the purposes of the police under this Act, or to levy such amount as a part of the rate for the relief of the poor in such parish, township, precinct or place, and that the overseers shall pay over the amount mentioned in the warrant, to the receiver to be appointed under this Act, within forty days from the delivery of such warrant to any one of the overseers: Provided always, that the sum to be paid for the purposes of the police under this Act shall not exceed in the whole in any one year the rate of eightpence in the pound on the full and fair annual value of all property rateable for the relief of the poor within such parish, township, precinct, or place, such full and fair annual value to be computed according to the last valuation for the time being acted upon in assessing the county rate; and that the warrant shall specify the rate in the pound at which the sum mentioned therein shall be computed.

Not to exceed 8*d.* in the pound in any one year, according to the valuation for county rate.

Sect. 24.

Who to be deemed overseers within this Act.

XXIV. Where any persons other than the overseers of the poor shall, by virtue of any office or appointment, be authorized and required to make and collect or cause to be collected the rate for the relief of the poor in any parish, township, precinct, or place, within the metropolitan police district, such persons, by whatsoever title they may be called, shall be deemed to be overseers of the poor within the meaning of this Act, and to be included under and denoted by the words "overseers of the poor," for all the purposes of this Act, as fully as if they were commonly called or known by the title of overseers of the poor.

Overseers shall collect the police rate in the same manner as the poor rate.

XXV. The overseers of the poor of every parish, township, precinct, or place, within the metropolitan police district, to whom any such warrant as aforesaid shall be issued, shall pay the amount mentioned in the warrant out of any money in their hands collected for the relief of the poor; and if there be no such money in their hands, or an insufficient sum, they shall levy the amount required as a part of the rate for the relief of the poor, and shall for that purpose proceed in the same manner, and have the same powers, remedies, and privileges as for levying money for the relief of the poor; . . .

Overseers, on non-payment of the police rate, shall be distrained upon;

and in default of sufficient distress, the arrears may be re-levied on the parish.

In case of default, &c., occasional overseers may be appointed for levying the police rate.

XXVI. In case the amount ordered by such warrant as aforesaid to be paid by the overseers in any parish, township, precinct, or place, in the metropolitan police district shall not be paid to the receiver within the time specified for that purpose in the warrant, the justices appointed under this Act, upon complaint thereof made to them by the receiver, may issue their warrant for levying the amount, or so much thereof as may be in arrear, by distress and sale of the goods of all or any of the said overseers; and in case the goods of all the overseers shall not be sufficient to pay the same, the arrears thereof shall be added to the amount of the next levy which shall be directed to be made in such parish, township, precinct, or place, for the purposes of the police under this Act, and shall be collected by the like methods; and the said justices, in case of any default or neglect of any overseer or overseers or in any other case in which one of His Majesty's principal Secretaries of State shall so direct, may appoint two or more persons to act as overseers of the poor within any parish, township, precinct, or place in the metropolitan police district, for levying the money for the purposes of the police under this Act; and the persons so appointed shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties, with reference to the levying of such money, as if they had been appointed overseers of the poor by virtue of any law or laws now in force.

Sects. 24—26. Note.

By the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 11 (1), the council of each metropolitan borough is constituted the overseers of each parish within the borough.

Sect. 27.

In property occupied by ambassadors, &c., the landlord shall pay the police rate.

XXVII. Where any messuages, lands, tenements, or hereditaments, within the metropolitan police district shall be occupied by any ambassador, agent, or other public minister of any foreign prince or state, or by the servant of any such ambassador, agent, or minister, or by any other person not liable by law to the payment of the poor's rate, all such money as would by virtue of this Act have been payable for the purposes of the police by the occupier of such messuages, lands, tenements, or hereditaments, if such occupier had been rateable to the relief of the poor, shall in such case be paid by and recoverable from the landlord or owner thereof, who shall for this purpose be deemed the occupier thereof, and shall be liable to all such proceedings for non-payment of such money as any person is by law liable to for non-payment of poor rate.

Right of inspecting county rates, &c.

XXVIII. Any justice appointed under this Act, or any person having an order for that purpose under the hand of any such justice, may inspect any county rate made or to be made for any county, any part of which shall be situate within the metropolitan police district, and may also inspect any returns concerning all or any of the parishes, townships, precincts, and places, whether parochial or extra-parochial, in the said district, delivered or to be delivered in pursuance of any of the Acts relating to county rates, and may take copies or extracts from any such rates or returns, without payment of any fee or reward; and if any person having the custody of such rate or return shall wilfully neglect or refuse to permit any such justice or other person to inspect the same, or to take copies or extracts from the same, within two days after such order shall have been produced and shown to him, or a copy thereof left at his usual place of abode, he shall, on conviction thereof before any two justices of the peace, forfeit and pay for every such offence such sum, not exceeding ten pounds, as they shall think meet.

Accounts to be laid before Parliament annually.

XXIX. *An account of all monies received and expended for the purposes of this Act, . . . shall annually be laid before both Houses of Parliament. . . .*; and such account shall specify the total sum charged upon and received from every parish, township, precinct, and place for the purposes of this Act, the rate in the pound at which such sum shall have been computed, and the total annual value of the entire property in every such parish, township, precinct, and place, as such total annual value shall be stated in the last valuation for the time being acted upon in assessing the county rate; and such account shall also specify the different heads of expenditure for the purposes of the police, and the amount actually expended under each.

[The words in this section printed in italics are repealed by the S. L. R. Act, 1873.]

Provision for assessing and levying police rate on

XXX. [*Recital.*] The respective inhabitants and occupiers of all messuages, lands, tenements, and hereditaments, in any precinct or place, whether parochial or extra-parochial, in the

Sect. 30.

premises within the metropolitan district not subject to poor rate.

metropolitan police district, although such messuages, lands, tenements, and hereditaments, may not be rated to the relief of the poor, or may be deemed not to be rateable thereto, shall nevertheless be liable to contribute to the expenses of the police under this Act, as if the property so inhabited or occupied were rateable and rated to the relief of the poor; and the justices appointed under this Act may from time to time, by warrant under their hands, appoint a proper person to be an assessor, for the purpose of assessing the full and fair annual value of such property, and rating the same to a police rate to be levied under this Act: Provided always, that the sum to be levied as a police rate shall not exceed in the whole in any one year the rate of eightpence in the pound on the full and fair annual value of such property; and such assessor shall, within forty days after the delivery to him of the warrant of his appointment, make, sign, and return to the said justices an assessment for the precinct or place named in such warrant; and the assessment shall be fairly written in a book, and shall specify, in different columns, the names of the respective inhabitants or occupiers of all messuages, lands, tenements, and hereditaments, the full and fair annual value of the same, and the amount of police rate charged on the inhabitants or occupiers thereof, and, when the premises shall be unoccupied, the full and fair annual value thereof to let; and every such assessor shall be allowed for his trouble and expenses such remuneration as one of His Majesty's principal Secretaries of State shall direct, and the same shall be paid out of the amount of the police rate which shall be collected after such assessment.

Mode of making the assessment.

Allowance to assessors.

[So much of this section as relates to the ascertaining the value of any hereditaments with respect to the value of which the valuation list is made conclusive is repealed, so far as relates to the metropolis, by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67, s. 77.]

When assessment is made, notice thereof shall be given, and all persons included in the assessment shall have liberty to inspect it, &c.

Penalty for refusing such inspection.

XXXI. When such assessment shall have been allowed by the justices appointed under this Act, public notice of such assessment, and of the place where the same may be inspected, shall be given by fixing such notice on the door of the church or chapel, or some other conspicuous part of the precinct or place to which such assessment shall relate, upon the Sunday next or next but one after the same shall have been so allowed; and any person in whose custody such assessment may be shall permit every inhabitant or occupier of property included in such assessment to inspect the same and to make any extracts therefrom, without payment of any fee or reward; and if such person shall wilfully neglect or refuse to permit any such inhabitant or occupier to inspect such assessment, or to make any extract therefrom, he shall, on conviction thereof before any two justices of the peace, forfeit and pay for every such offence such sum, not exceeding five pounds, as the justices shall think meet.

Sect. 32.

Collection of the police rate charged in such assessment.

XXXII. The justices appointed under this Act shall from time to time nominate one or more person or persons for levying the amount of police rate charged in every such assessment, who shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties with reference to the levying of such police rate, as if he or they were an overseer or overseers of the poor in a precinct or place rated to the relief of the poor, and shall pay over the amount of such police rate to the receiver to be appointed under this Act, or in default thereof shall be proceeded against in the same manner as overseers are by this Act to be proceeded against for non-payment.

[So much of this section as relates to the ascertaining the value of any hereditament with respect to the value of which the valuation list is made conclusive is repealed, so far as relates to the metropolis, by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67, s. 77.]

Appeal against assessment.

XXXIII. Provided always, that if any person who shall have paid the amount of police rate charged upon him by the assessment made by an assessor appointed under this Act shall think himself aggrieved by such assessment, on the ground that such assessment includes any property for which he is not rateable under this Act, or that it assesses his rateable property beyond its full and fair annual value, or that any person or persons is or are omitted out of such assessment, or that the property of any person or persons is assessed below its full and fair annual value, the person so aggrieved may appeal to the next court of general or quarter sessions which shall be holden for the county in which the cause of appeal shall have arisen, not less than twenty-one days after public notice of such assessment shall have been given as herein-before mentioned; provided that the person so intending to appeal shall give to the receiver to be appointed under this Act a notice in writing of such appeal, and of the cause and matter thereof, ten clear days at the least before such sessions, and shall also, within three days after his notice of appeal, enter into a recognizance before some justice of the peace of the county, with two sufficient sureties, conditioned to try such appeal at the said sessions, and to abide the order of the court thereupon, and to pay such costs as shall be by the court awarded; and in case such person shall appeal on the ground that any person or persons is or are omitted out of the assessment, or that the property of any person or persons is assessed below its full and fair annual value, the party so appealing shall not only give such notice of appeal to the receiver, and enter into such recognizance as aforesaid, but shall also give a like notice of appeal to the person or persons so interested in the event of such appeal as aforesaid, and shall enter into a like recognizance, within the times herein-before respectively mentioned; and the person or persons so interested shall, if he or they shall desire it, be heard upon the appeal; and the justices of the peace at such sessions, or some adjournment thereof, upon

The assessment may be altered to relieve the

Sect. 33.

appellant, without altering any other part of it.

due proof of the notice having been given, and of the recognizance having been entered into as aforesaid, shall hear and determine the matter of the appeal in a summary manner, and shall make such order therein, with or without costs to either party, as the said justices shall think proper; and in case the said justices shall think the appellant entitled to relief, they shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him which he was not liable to pay to be returned to him; and in case he shall have appealed on the ground that any person or persons is or are omitted out of the assessment, the said justices may order the name or names of such person or persons to be inserted in the assessment, and to be therein rated at such amount as they shall deem just; and in case the appellant shall have appealed on the ground that the property of any person or persons is assessed below its full and fair annual value, the said justices may order the amount at which such person or persons is or are rated in the assessment to be altered in such manner as they shall deem just; and the proper officer of the court shall in each of the cases aforesaid forthwith amend the assessment accordingly, but the assessment shall not be quashed or altered with respect to any other persons named therein; and the determination of the justices at any such sessions or adjournment shall be final and conclusive.

His Majesty may hereafter, by order in council, direct any parishes within a certain distance of the metropolis to be added to the district, and such parishes when so added shall be subject to all the provisions of this Act.

XXXIV. [*Recital.*] It shall be lawful for His Majesty from time to time, by the advice of his Privy Council, to order that any parishes, townships, precincts, and places, whether parochial or extra-parochial, in the counties of Middlesex, Surrey, Hertford, Essex, and Kent, of which any part shall be situate within twelve miles of Charing Cross, in the city of Westminster, shall, after a certain day to be named in such order, be added to and form part of the metropolitan police district, and be placed under the charge of a police to be appointed under this Act; and all provisions herein-before contained with regard to the discontinuance of the night watch and night police appointed previously to or independently of this Act, the cessation of their powers, the cessation of the powers for levying watch rates, the giving up of watch-houses, or parts of buildings used as watch-houses, watch-boxes, arms, accoutrements, and other necessaries, together with the penalties for neglect or refusal in that behalf, the exception as to any watch rate previously made, and the power to assess and levy rates for debts previously incurred, and also all provisions herein-before contained with regard to the levying of money for the purposes of the police, the levying thereof as a part of the poor's rate, the amount of such levy, the payment thereof to the receiver, the proceedings against overseers for default, the addition of arrears to the next levy, the appointment of persons to act as overseers, and all provisions with regard to the assessment of property, and the rating of the same to a police rate by assessors appointed under

Sect. 34.

this Act, and with regard to the powers and duties of such assessors, as well as all other matters whatsoever previous to, concomitant with, or consequent or contingent upon such assessment, shall apply and be enforced in every parish, township, precinct, and place which shall by order in council be added to the metropolitan police district, as fully and effectually as if such parish, township, precinct, or place had been originally included in such district by virtue of this Act.

Misnomers not to affect the execution of the Act.

XXXV. No misnomer or inaccurate description of any parish, township, precinct, or place mentioned in the schedule to this Act, or in any order in council to be made as aforesaid, shall prevent or in anywise affect the execution of this Act, but this Act and every part thereof shall apply and be enforced in every such parish, township, precinct, and place, as fully and effectually to all intents and purposes as if the same had been correctly named and described in such schedule or order in council, provided that the same be designated therein to common intent and understanding; and united parishes shall, for all the purposes of this Act, be deemed to be included under and denoted by the word "parish."

[Sect. 36. Repealed by the S. L. R. Act, 1873.]

Application of penalties.

XXXVII. Every sum which by any justices of the peace shall be adjudged to be paid for any offence against this Act shall be paid to the receiver appointed under this Act, to be by him added to and applied as part of the funds for the purposes of the police under this Act; . . . and no justice of the peace shall be disabled from acting in the execution of this Act by reason of his being liable to the payment of any money for the maintenance of the police under this Act.

Persons paying police rate may act as justices.

[Sect. 38, 39, 41—43. Repealed by the S. L. R. Act, 1873. Sects. 40, 44. Repealed by the S. L. R. Act, 1888.]

SCHEDULE TO WHICH THIS ACT REFERS.

A list of the Parishes, Townships, Precincts, and Places, referred to by the Act as constituting "The Metropolitan Police District."

COUNTY OF MIDDLESEX.

City and Liberties of Westminster.

The parishes of Saint Margaret and Saint John the Evangelist.
The parish of Saint Martin-in-the-Fields.
The parish of Saint George, Hanover Square.
The parish of Saint James.
The parish of Saint Mary-le-Strand, as well within the liberty of Westminster as within the duchy liberty.
The parish of Saint Clement Danes, as well within the liberty of Westminster as within the duchy liberty.

Schedule.

The parish of Saint Paul, Covent Garden.
The parish of Saint Ann in the liberty of Westminster.
Whitehall Gardens, whether the same be parochial or extra-parochial.
Whitehall, whether the same be parochial or extra-parochial.
Richmond Terrace, whether the same be parochial or extra-parochial.
The close of the Collegiate Church of Saint Peter.

Holborn Division.

The parishes of Saint-Giles-in-the-Fields and Saint George, Bloomsbury.
The parishes of Saint Andrew, Holborn, and Saint George the Martyr.
The liberty of Saffron Hill, Hatton Garden, and Ely Rents.
The liberty of the Rolls.
The parish of Saint Pancras.
The parish of Saint John, Hampstead.
The parish of Saint Mary-le-bone.
The parish of Paddington.
The precinct of the Savoy.

Finsbury Division.

The parish of Saint Luke.
The liberty of Glasshouse Yard.
The parish of Saint Sepulchre.
The parish of Saint James, Clerkenwell, including both districts of Saint James and Saint John.
The parish of Saint Mary, Islington.
The parish of Saint Mary, Stoke Newington.
The Charter House.

Tower Division.

The parish of Saint Mary, Whitechapel.
The parish of Christchurch.
The parish of Saint Leonard, Shoreditch.
The liberty of Norton Folgate.
The parish of Saint John, Hackney.
The parish of Saint Matthew, Bethnal Green.
The hamlet of Mile End Old Town.
The hamlet of Mile End New Town.
The parish of Saint Mary, Stratford Bow.
The parish of Bromley Saint Leonard.
The parish of All Saints, Poplar.
The parish of Saint Ann, Limehouse.
The hamlet of Ratcliffe.
The parish of Saint Paul, Shadwell.
The parish of Saint George-in-the-East.
The parish of Saint John, Wapping.

Schedule.

The liberty of East Smithfield.
The precinct of Saint Catherine.
The liberty of His Majesty's Tower of London, consisting of
The liberty of the Old Artillery Ground.
The parish of Trinity, Minories.
The Old Tower precinct.
The precinct of the Tower within.
The precinct of Wellclose.

Kensington Division.

The parish of Kensington.
The parish of Saint Luke, Chelsea.
The parish of Fulham.
The hamlet of Hammersmith.
The parish of Chiswick.
The parish of Ealing.
The parish of Acton.

Brentford Division.

The township of New Brentford.

Extra-parochial Places.

Lincoln's Inn.
Gray's Inn.
Staple's Inn.
That part of Furnival's Inn in the county of Middlesex.
Ely Place.

KENT.

The parish of Saint Paul, Deptford.
The parish of Saint Nicholas, Deptford.
The parish of Greenwich.

SURREY.

The parish of Barnes.
The parish of Battersea.
The hamlet of Penge.
The parish of Bermondsey.
The parish of Camberwell.
The parish of Clapham.
The parish of Lambeth.
The parish of Newington.
The parish of Putney.
The parish of Rotherhithe
The parish of Streatham.

Schedule.

The parish of Tooting.
The parish of Wandsworth.
The parish of Christchurch.
Clink liberty.
The hamlet of Hatcham in the parish of Deptford.

BOROUGH OF SOUTHWARK.

The parish of Saint George.
The parish of Saint Saviour.
The parish of Saint John.
The parish of Saint Olave.
The parish of Saint Thomas.

POOR RELIEF (SETTLEMENT) ACT, 1831.

1 WILL. IV., CHAP. 18.

An Act to explain and amend an Act of the Sixth Year of His late Majesty King George the Fourth, as far as regards the Settlement of the Poor by the Renting and Occupation of Tenements.* [30th March, 1831.]

[Preamble recited 6 Geo. 4, c. 57, s. 2, and that doubts had arisen with respect to the intentions of the legislature concerning the occupation of such house, building or land, by the person hiring the same, and concerning the amount of rent to be paid and the person paying the same.]

Actual occupation for one year, and payment of 10*l.* rent, necessary for acquiring settlement by such yearly hiring as in recited Act expressed.

[I.] No person shall acquire a settlement in any parish or township maintaining its own poor, by or by reason of such yearly hiring of a dwelling-house or building, or of land, or of both, as in the said Act expressed, unless such house or building, or land, shall be actually occupied under such yearly hiring in the same parish or township, by the person hiring the same, for the term of one whole year at the least, and unless the rent for the same, to the amount of ten pounds at the least, shall be paid by the person hiring the same.

Where rent above 10*l.*, payment to that amount shall be sufficient.

II. Provided always, that where the yearly rent shall exceed ten pounds, payment to the amount of ten pounds shall be deemed sufficient for the purpose of gaining a settlement under the said recited Act.

* The decisions under this statute and under 6 Geo. 4, c. 57, s. 2, cannot be divided with advantage; they are all, therefore, collected here.

Sects. 1, 2. Note.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 66, "no settlement shall be acquired or completed by occupying a tenement unless the person occupying the same shall have been

assessed to the poor rate, and shall have paid the same in respect of such tenement for one year."

Note.

Hiring for a year at the least.

Although a tenancy is terminable by a notice to quit within a year, yet if the terms of the hiring are such as to show that the parties contemplated that the tenancy would, unless the notice was given, endure for a year or more, and if it does endure for a year, there is a sufficient yearly hiring to satisfy the conditions of 6 Geo. 4, c. 57, s. 2 (*Hastings Union* v. *St. James, Clerkenwell*, L. R. 1 Q. B. 38; 6 B. & S. 914; 35 L. J. M. C. 65; 13 L. T. (N. S.) 362; 11 Jur. (N. S.) 977; 14 W. R. 175).

Thus the following agreements for hiring under which actual occupation for a year or more has taken place, have been held to be sufficient yearly hirings under the statute: House hired at twenty guineas a year, the rent to be paid weekly, and either landlord or tenant to be at liberty to determine the tenancy at three months' notice from any quarter day (*Rex* v. *Herstmonceaux*, 7 B. & C. 551; 1 M. & R. 426). House hired for the term of six months from January 1st, and so on from six months to six months until one of the parties should give six calendar months' notice in writing to determine the tenancy, at the rent of 13*l.* for six months, the first payment to be made on July 1st (*Rex* v. *Chawton*, 1 Q. B. 247; 4 P. & D. 525; 5 Jur. 245). House hired at the monthly rent of 1*l.* 16*s.* 8*d.*, tenant paying all tenant's rates and taxes, a month's notice expiring on a quarter day to be sufficient notice on either side to determine the tenancy (*Reg.* v. *St. Giles-without-Cripplegate*, 4 B. & S. 509; 33 L. J. M. C. 3; 10 Jur. (N. S.) 205; 9 L. T. (N. S.) 411; 12 W. R. 125). House let for three months from December 25th, 1859, at the yearly rent of 18*l.*, the first monthly payment to be made on January 25th, 1860, three months' notice from either party to the other to be sufficient notice to quit (*Willesden Overseers* v. *Paddington Overseers*, 3 B. & S. 593; 32 L. J. M. C. 109; 8 Jur. (N. S.) 874; 11 W. R. 425). House hired quarterly at a yearly rent of 25*l.* to be paid on the usual quarter days, taxes to be paid by the tenant, to be left in tenantable repair, a quarter's notice to be given by either party (*Hastings Union* v. *St. James, Clerkenwell, supra*).

But where the agreement was that the tenant should hold the premises for the term of three calendar months thenceforth next ensuing at the rent of 15*l.* per quarter, the landlord agreeing that he should continue to occupy the premises as tenant from quarter to quarter at the like rent, until the giving or receiving three months' notice to quit by either of the parties ending at one of the usual quarter days, it was held that this did not constitute a yearly hiring within the meaning of the statute (*Reg.* v. *Norwich Incorporation*, 30 L. T. (N. S.) 704).

Occupation and residence.

Under 6 Geo. 4, c. 57, and before 1 Will. 4, c. 18, it was not necessary that the person hiring the tenement should himself occupy it. He might sub-let it either in part (*Rex* v. *Ditcheat*, 9 B. & C. 176; 4 M. & R. 151), or in whole (*Rex* v. *Great Bentley*, 10 B. & C. 520; *Rex* v. *Macclesfield*, 2 B. & Ad. 870), and such constructive occupation by the sub-tenant was sufficient to satisfy the statute.

Since 1 Will. 4, c. 18, however, it has been necessary that the whole of the tenement should be actually occupied by the person hiring the same, so that no settlement can be gained by hiring a dwelling-house any part of which is sub-let to lodgers or others (*Rex* v. *St. Nicholas, Rochester*, 5 B. & Ad. 219; 3 N. & M. 21), for

Sects. 1, 2.

Note.

however short a period during the year (*Rex* v. *St. Nicholas, Colchester*, 2 A. & E. 599; 4 N. & M. 422; 4 L. J. M. C. 46).

A licence, however, to other persons to use a part of the hired premises which does not confer on such persons a right to the exclusive occupation of such part, does not in itself prevent the tenant from obtaining a settlement; and a settlement was obtained by a person hiring a house and residing in it for a year, notwithstanding that he was in the habit of taking in persons to sleep in some of the rooms, sometimes letting a bed and sometimes half a bed, generally by the night only, but occasionally by the week, such persons having no right to the rooms during the day, and the tenant retaining the keys of all the rooms and having constant access to and control over the whole house (*Rex* v. *St. Giles-in-the-Fields*, 4 A. & E. 495; 6 N. & M. 5).

Where a person during his year of tenancy assigned all his crops and other personal effects to a trustee for the benefit of his creditors, and before the end of the year the trustee sold the stock and effects and the crops which were cut and carried away, and at the end of the year paid the year's rent out of the produce of the sale, it was held that, although the tenant occupied the house until the end of the year, there was neither exclusive occupation by the tenant nor payment of rent by him to satisfy the statute, and that he gained no settlement (*Rex* v. *Pakefield*, 4 A. & E. 612; 6 N. & M. 16; 1 H. & W. 697).

The words "a separate and distinct dwelling-house or building," in 6 Geo. 4, c. 47, s. 2, operate to exclude an occupation of a house or building jointly with some other person (*Rex* v. *Caversall*, 10 A. & E. 270; 1 P. & D. 426; 3 Jur. 480), but not to exclude the occupation by one person of two or more dwelling-houses or buildings in the same parish (*Rex* v. *Wootton*, 1 A. & E. 232; 3 N. & M. 312).

Under 6 Geo. 4, c. 57, and before 1 Will. 4, c. 18, a settlement might be gained by renting two distinct dwelling-houses, at a rent of 10*l.*, although one only was occupied by the party himself (*Rex* v. *Iver*, 1 A. & E. 228; 3 N. & M. 27), but since 1 Will. 4, c. 18, if more than one dwelling-house or building be demised at an entire rent, the tenant must occupy the whole of the premises demised; and it is not sufficient that he occupy one or more of the houses or buildings so demised, even though of greater value than 10*l.* a year, unless he also occupy the other houses and buildings included in the demise (*Rex* v. *Berkswell*, 6 A. & E. 282; 1 N. & P. 432; 1 Jur. 39). The words "separate and distinct" do not apply to land, so that where A. and B. jointly occupied land at an annual rent of 60*l.*, A. having complied with the statutes in other respects, was held to have obtained a settlement (*Rex* v. *St. Lawrence, Appleby*, 6 Q. B. 842; 14 L. J. M. C. 56; 9 Jur. 249).

The occupation must be under a single hiring, and no settlement is gained by occupying the same tenement for a continuous year, the occupation during part of the year being under one hiring, and during the remainder under another hiring (*Rex* v. *Banbury*, 1 A. & E. 136; 3 N. & M. 292).

The general rule of law that a fraction of a day is not to be regarded applies to the computation of a year for the purpose of obtaining a settlement by renting a tenement. A tenant entered upon the occupation premises about twelve o'clock on September

Sects. 1, 2. Note.

30th, 1850, and in the evening of the same day signed an agreement of tenancy "for one year commencing on September 30th instant." He quitted possession on September 29th, 1851, about four o'clock in the afternoon; it was held that there had been an occupation "for one whole year at the least" within the meaning of the statute 1 Will. 4, c. 18 (*Reg.* v. *St. Mary, Warwick*, 1 E. & B. 816; 22 L. J. M. C. 109; 17 Jur. 551).

Rent the criterion of value.

The rent of the house or land must be at the rate of at least 10*l.* for the whole of the year during which occupation continues; it is not sufficient that the rent be increased during the year on the happening of a contingency or otherwise, so that in fact 10*l.* or more is actually paid as rent for the year. Thus A., in June, 1844, in partnership with W., rented and entered into possession of three acres of land, in order to sink a coal pit, at a yearly rent of 125*l.* an acre for the coal, and 2*l.* 10*s.* an acre for the surface; the rent for the coal was not to commence until after the coal was reached, and the first half-year's coal rent was to be paid six months after that time. The coal was reached in December, 1844, and in June, 1845, A. and W. paid half a year's rent for the coal and one year's rent for the surface; and in September, 1845, the tenancy ceased. It was held that no settlement was gained by A., inasmuch as until the coal was reached the rent was less than 10*l.* a year, and there had not been occupation for a year under a hiring "at and for the sum of 10*l.* a year at the least" (*Reg.* v. *West Ardsley*, 4 B. & S. 95; 32 L. J. M. C. 255; 9 Jur. (N. S.) 1287; 11 W. R. 777).

If the rent of the tenement is a *bonâ fide* rent amounting to 10*l.* a year, it is not necessary to prove the actual value of the tenement. It is, therefore, a sufficient hiring at "10*l.* a year at the least," if the rent is fixed at 10*l.* a year and actually paid, although the landlord pays the taxes (*Rex* v. *Thurmaston*, 1 B. & Ad. 731; *Rex* v. *Framlingham*, Burr. S. C. 748; *Rex* v. *St. Paul's, Deptford*, 13 East, 320), and tithes (*R.* v. *St. John, Bedwardine*, 8 A. & E. 192; 3 N. & P. 302), due in respect of the tenement, which if deducted from the rent would reduce it below 10*l.* a year. Evidence, however, may in certain cases be admitted to prove the value; as, for instance, in the case of a tenement situate in two parishes at an entire rent exceeding 10*l.*, evidence is admissible to show what part of the rent is payable in respect of the several portions of the tenement situate in the respective parishes. Thus, a tenement consisting of a dwelling-house and thirty-two acres of land was hired and occupied for a year, at an annual rent of 20*l.*, and a year's rent was paid. Twenty-seven acres of the land were situate in the township of N., and five acres within that of P. *Held* that evidence ought to be admitted to show how much of the entire annual rent of 20*l.* was paid in respect of the land in N. (*Rex* v. *Pickering*, 2 B. & Ad. 267). And where land and incorporeal hereditaments were demised at an entire rent by an instrument not under seal, evidence was admissible to show how much of such rent the land was worth (*R.* v. *Hockworthy*, 7 A. & E. 492; 2 N. & P. 382).

Payment of rent by person hiring the tenement.

No settlement could be acquired under 6 Geo. 4, c. 57, by renting a tenement unless the entire rent for one whole year, whatever its amount, was actually paid (*Rex* v. *Ashley Hay*, 8 B. & C. 27; 2 M. & R. 21; *Rex* v. *Ramsgate*, 6 B. & C. 712; 9 D. & R. 688); but under that statute it was not necessary that the rent should be paid by the tenant; it was enough if it was actually paid (*Rex* v. *Kibworth Harcourt*, 7 B. & C. 790; 1 M. & R. 691). Since 1 Will. 4, c. 18, a settlement may be obtained where the annual rent of the tenement exceeds 10*l.*, if a payment to

TRUCK ACT, 1831.

1 & 2 WILL. IV., CHAP. 37.

An Act to prohibit the Payment, in certain Trades, of Wages in Goods, or otherwise than in the Current Coin of the Realm. [15th October, 1831.]

[The only portion of this Act, or of subsequent Truck Acts, relating to the poor law, is the sections printed below.]

* * * * *

If any artificer or his wife or children become chargeable to the parish, the overseers may recover any wages earned by him within the three preceding months, and not paid in cash.

VII. If any artificer, or his wife or widow, or if any child of any such artificer, not being of the full age of twenty-one years, shall become chargeable to any parish or place, and if within the space of three calendar months next before the time when any such charge shall be incurred such artificer shall have earned or have become entitled to receive any wages for any labour by him done . . . which wages shall not have been

---

1 Will. 4, c. 18. Sects. 1, 2. Note.

the amount of 10*l.* is made; but such amount must be actually paid by the person hiring the tenement. Thus, the stewards of a Wesleyan circuit hired a dwelling-house at a rent of 20*l.* a year, which was continuously occupied by the minister for three years. The minister paid the rent, and was assessed to and paid the poor rate, and the rent and rates so paid by him were repaid to him by the circuit steward; it was held that there had been no payment of rent by the person hiring the tenement, and that the minister had not gained a settlement (*Reg.* v. *Tiverton*, 3 E. & E. 555; S. C. *Tiverton, Overseers*, v. *Mangotsfield, Overseers*, 30 L. J. M. C. 79; 7 Jur. (N. S.) 209; 3 L. T. (N. S.) 696). And payment of rent by the trustee of a deed for the benefit of creditors out of the produce of the property assigned by the tenant, was held not to be a payment by the person hiring the tenement (*Rex* v. *Pakefield*, 4 A. & E. 612; 6 N. & M. 16; 1 H. & W. 697). So, where a tenant handed over to his successor the furniture and fixtures in the house in consideration of his paying the rent then due, and the landlord afterwards distrained on such furniture, &c., for such rent, it was held not to be a payment of rent by the tenant within the statute (*Reg.* v. *Melsonby*, 12 A. & E. 687; 4 P. & D. 515).

If money is supplied to a pauper by parish officers of one parish with the fraudulent intent of enabling him to pay the rent of a tenement and so gain a settlement in another parish, the pauper will not gain a settlement in such other parish, although the hiring of the tenement is itself *bonâ fide* (*Rex* v. *Tillingham*, 1 B. & Ad. 180; *Rex* v. *St. Sepulchre, Cambridge*, 1 B. & Ad. 924).

---

1 & 2 Will. 4, c. 37. Sect. 7. Note.

By the Truck Amendment Act, 1887 (50 & 51 Vict. c. 46), s. 2, "the provisions of the principal (*i.e.*, this) Act shall extend to, apply to, and include any workman as defined in the Employers and Workmen Act, 1875, s. 10, and the expression 'artificer' in

paid to such artificer in the current coin of this realm, it shall be lawful for the overseers or overseer of the poor in such parish or place to recover from the employer of such artificer in whose service such labour was done the full amount of wages so unpaid, and to proceed for the recovery thereof by all such ways and means as such artificer himself might have proceeded for that purpose; and the amount of the wages which may be so recovered shall be applied in reimbursing such parish or place all costs and charges incurred in respect of the person or persons to become chargeable, and the surplus shall be applied and paid over to such person or persons. Sect. 7.

* * * * *

XXV. In the meaning and for the purposes of this Act . . . all masters, bailiffs, foremen, managers, clerks, and other persons, engaged in the hiring, employment, or superintendence of the labour of any such artificers, shall be and be deemed to be "employers"; and within the meaning and for the purposes of this Act any money or other thing had or contracted to be paid, delivered, or given as a recompense, reward or remuneration for any labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, shall be deemed and taken to be the "wages" of such labour; and within the meaning and for the purposes aforesaid any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, whether direct or indirect, to which Definition of terms.

---

the principal Act shall be construed to include every workman to whom the principal Act is extended and applied by this Act, and all provisions and enactments in the principal Act inconsistent herewith are hereby repealed." The words omitted in this section are repealed by the above recited section. By sect. 16 of the same Act "the provisions of the principal Act conferring powers on any overseers or overseer of the poor shall be deemed to confer those powers . . . on the guardians of a union. . . ." Sect. 7. Note.

By the Employers and Workmen Act, 1875 (38 & 39 Vict. c. 90), s. 10, "The expression 'workman' does not include a domestic or menial servant, but, save as aforesaid, means any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer, whether the contract be made before or after the passing of this Act, be express or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour."

For special applications of this definition, see *Cook* v. *North Metropolitan Tramways Co.*, 18 Q. B. D. 683; *Morgan* v. *London General Omnibus Co.*, 13 Q. B. D. 832; *Jackson* v. *Hill & Co.*, 13 Q. B. D. 618; *Reg.* v. *Wortley*, 21 L. J. M. C. 44; *Lawrence* v. *Todd*, 14 C. B. (N. S.) 554; 32 L. J. M. C. 238.

Sect. 25.

the employer and artificer are parties or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them, shall be and be deemed a "contract."

* * * * *

POOR RELIEF ACT, 1831.

1 & 2 WILL. IV., CHAP. 42.

An Act to amend an Act of the Fifty-ninth Year of His Majesty King George the Third, for the Relief and Employment of the Poor. [15th October, 1831.]

[Preamble recited 59 Geo. 3, c. 12, s. 12, and that the limitation therein to twenty acres had been found inconvenient in many parishes.]

Churchwardens, &c., may provide land for employment of the poor not exceeding fifty acres;

[I.] It shall and may be lawful for the churchwardens and overseers of the poor of any parish to hire and take on lease, for the employment of the poor of such parish, any suitable portion or portions of land within or near to such parish, to an extent not exceeding fifty acres.

and may inclose part of waste lands for cultivation, with consent of lord of manor, &c.

II. In order to extend the salutary and benevolent purposes of this Act, it shall and may be lawful for the churchwardens and overseers of the poor of any parish to inclose from any waste or common land or ground lying in or near to such parish, with the consent in writing of the lord of the manor and the major part in value of the persons having right of common thereupon, signified under their hands and seals, any part or portion of such waste or common land not exceeding fifty acres, and to cultivate and improve the same for the use and benefit of such parish and the poor persons within the same, or to let any part or parts of the same to any poor and

---

Sect. 1. Note.

By the Union and Parish Property Act, 1935 (5 & 6 Will. 4, c. 69), s. 4, all the powers and authorities contained in this Act are thereafter to be exercised, subject to the control of the Poor Law Commissioners (now the Local Government Board), by the overseers of any parish not under a board of guardians, and by the guardians of any union or parish formed by virtue of any statute or local Act. In rural parishes the powers of the guardians in respect of the letting of any property of any parish, are now vested in the parish council of such parish by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (d).

See as to similar powers for acquiring land for letting, &c., to the poor, the Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 12; the Crown Land Allotments Act, 1831 (1 & 2 Will. 4, c. 59); and the Allotments Act, 1832 (2 & 3 Will. 4, c. 42).

industrious inhabitant or inhabitants of such parish, to be by him or them occupied and cultivated on his or their own account. Sect. 2.

III. The powers and authorities hereby given to churchwardens and overseers of the poor shall extend to and may be exercised by the guardians of the poor of any parishes or places which are or may be incorporated or united under and by virtue of an Act made and passed in the twenty-second year of the reign of His late Majesty King George the Third, intituled "An Act for the better Relief and Employment of the Poor," or under or by virtue of any local Act or Acts, and by the overseers of all townships, villages, and places having separate overseers, and maintaining their poor separately. Extension of powers to guardians of unions under 22 Geo. 3, c. 83, or local Acts; and to overseers.

IV. The clauses, powers, and authorities, regulations, provisions, and directions, in and by the said recited Act given, contained, and made, with respect to the providing of land for the employment of the poor, or to the cultivation, management, or disposition thereof, or to the poor persons employed thereon or renting any portion thereof, shall, so far as the same are applicable, be deemed and taken to extend to any land which shall be provided under this Act, and to the poor persons employed thereon or renting any portion thereof respectively. Provisions of recited Act extended to lands provided under this Act, &c.

V. Provided always, that no poor inhabitant of any parish or place, to whom any land shall be let which shall or may have been or shall be hired or taken or inclosed under or by virtue of the said recited Act or this Act, shall gain a settlement by reason of his renting and occupying or paying parochial taxes for such land, either alone or with any other land or tenement. No settlement to be gained by renting, &c., of lands under recited Act or this Act.

Sect. 2. Note.

For the transfer of the powers of churchwardens and overseers in rural parishes to the parish council see note to sect. 1, *supra*. It is to be noticed that only the powers of the guardians with regard to the "sale, exchange, or letting" of parish property are transferred to the parish council; the power of inclosing and cultivating land under this section apparently remains in the guardians.

By the Allotments Act, 1832 (2 & 3 Will. 4, c. 42), s. 11, the powers and provisions of that Act are made applicable to lands inclosed under this section.

By the Commons Act, 1899 (62 & 63 Vict. c. 30), s. 22, a grant or inclosure of common purporting to be made under this Act will not be valid without the consent of the Board of Agriculture.

Sect. 3. Note.

The 22 Geo. 3, c. 83, is repealed by the S. L. R. Act, 1874, and the provisions of this section are in effect superseded by those of the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 4.

Sect. 5. Note.

Settlement by renting and occupying a tenement is regulated by 6 Geo. 4, c. 57; 1 Will. 4, c. 18; and 4 & 5 Will. 4, c. 76, s. 64. Settlement by payment of parochial taxes is regulated by 3 Wm. & M. c. 11, s. 6; 6 Geo. 4, c. 57, s. 2; and 1 Will. 4, c. 18, s. 2.

CROWN LAND ALLOTMENTS ACT, 1831.

1 & 2 WILL. IV., CHAP. 59.

An Act to enable Churchwardens and Overseers to inclose Land belonging to the Crown, for the Benefit of Poor Persons residing in the Parish in which such Crown Land is situated. [20th October, 1831.]

[Preamble recited 59 Geo. 3, c. 12, and that it was expedient to extend the power thereby given to provide land for the employment of the poor.]

Churchwardens, &c., with consent of Treasury, may inclose not exceeding fifty acres from forest or waste lands of Crown for benefit of the poor.

[I.] It shall and may be lawful for the churchwardens and overseers of the poor of any parish to inclose from any forest or waste lands belonging to the Crown lying in or near to such parish, with the consent in writing of the Treasury, to be signified by some warrant, any part or portion of such forest or waste lands not exceeding fifty acres, for the purpose of cultivating and improving the same for the use and benefit of such parish and the poor persons within the same.

Persons renting land under recited Act or this Act not to gain a settlement thereby.

II. Provided always, that no poor inhabitant of any parish or place to whom any land shall be let which shall or may have been or shall be hired or taken or inclosed under or by virtue the said recited Act or this Act shall gain a settlement by reason of his renting and occupying or paying parochial taxes for such lands, either alone or with any other land or tenement.

Sect. 1.

Note.

By the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 4, all powers and authorities in this Act contained are to be exercised, subject to the control, &c., of the Poor Law Commissioners (now the Local Government Board), by the overseers in any parish not under a board of guardians, and by the guardians of any union or parish formed by virtue of any statute or local Act.

As it appears from sect. 2 of this Act that the land inclosed under this section may be let to poor persons as allotments, such powers of letting are in rural parishes now vested in the parish council (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (d)).

By the Allotments Act, 1832 (2 & 3 Will. 4, c. 42), s. 11, the powers and provisions of that Act are made applicable to lands inclosed under this Act; save that by the Poor Allotments Management Act, 1873 (36 & 37 Vict. c. 19), s. 14, the rents of lands acquired under this Act are not to be applied in purchase of fuel, but are to be applied in aid of the poor rate of the parish in which such lands are situate.

By the Commons Act, 1899 (62 & 63 Vict. c. 30), s. 22, a grant or inclosure of common purporting to be made under this Act will not be valid without the consent of the Board of Agriculture.

Sect. 2.

Note.

Settlement by renting and occupying a tenement is regulated by 6 Geo. 4, c. 57; 1 Will. 4, c. 18; and 4 & 5 Will. 4, c. 76, s. 64. Settlement by payment of parochial taxes is regulated by 3 Wm. & M. c. 11, s. 6; 6 Geo. 4, c. 57, s. 2; and 1 Will. 4, c. 18, s. 2.

VESTRIES ACT, 1831.

1 & 2 WILL. IV., CHAP. 60.

An Act for the better Regulation of Vestries, and for the Appointment of Auditors of Accounts, in certain Parishes of England and Wales. [20th October, 1831.]

[This Act is printed here for the sake of reference, as forming one of the series of statutes relating to parish government and officers, rather than for any direct bearing that it has upon the administration of the poor law. It is repealed so far as it relates to parishes in the metropolis by the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), s. 1; and, with the exception of sect. 39, is repealed by the Local Government Act, 1894, so far as it relates to parish meetings under that Act. The transfer by the Local Government Act, 1894, of the powers and duties of vestries to parish councils, or parish meetings in rural parishes, limits the present operation of the Act to parishes in urban districts.]

Act may be adopted by any parish.

[I.] This Act and the several provisions thereof shall apply to and may be adopted, under and subject to the regulations herein contained, by any parish or parishes in England and Wales.

Requisition by ratepayers for adoption thereof.

II. When in any parish certain of the ratepayers thereof may desire that the said parish should come under the operation of this Act, then and in that case any number of ratepayers amounting at least to one-fifth of the ratepayers of such parish, or any number of ratepayers amounting at least to fifty parishioners, may, on some day between the first day of December and the first day of March, deliver a requisition by them signed, and describing their places of residence, to the churchwardens, or to one of them, serving for the said parish, requiring of the said churchwardens to ascertain according to the manner hereinafter mentioned whether or not a majority of the ratepayers of the said parish do wish and require that this Act and the provisions thereof should be adopted therein; and which requisition may be in the form or to the tenor and effect following; (that is to say,)

Form of requisition.

"To the Churchwardens of the Parish of [insert here the name of the parish].

"WE, whose names are hereunto subscribed, being ratepayers resident in the said parish, and respectively rated or assessed to the relief of the poor thereof, do hereby require you the said churchwardens to ascertain and determine the adoption or non-adoption of an Act of the second year of the reign of King

Sect. 2.

William the Fourth, chapter , intituled 'An Act' [here insert the title of the Act].

"Dated this day of in the year of our Lord ."

Upon receipt of requisition, churchwarden to give notice of time and place for receiving votes as to adopting Act.

III. The said churchwardens of the said parish shall on the first Sunday in the month of March next after the receipt of such requisition affix or cause to be affixed a notice to the principal doors of every church and chapel within the said parish, specifying some day, not earlier than ten days and not later than twenty-one days after such Sunday, and at what place or places within the said parish the ratepayers are required to signify their votes for or against the adoption of this Act; which votes shall be received on three successive days, commencing at eight of the clock in the forenoon and ending at four of the clock in the afternoon of each day; and the said notice shall be to the following effect:

Form of notice.

"THE churchwardens of this parish [insert here the name of the parish] having received a requisition duly signed according to the provisions of an Act of the second year of the reign of William the Fourth, chapter , for the better regulation of vestries, the ratepayers of this parish of [insert here the name of the parish] are hereby required, all and each of them, on the day of next, and the two following days, to signify to the said churchwardens by a declaration, either printed or written, or partly printed or partly written, addressed and delivered to one of the churchwardens at [insert here the place], their votes for or against the adoption of the aforesaid Act for the better regulation of vestries by the ratepayers of this parish.

"(Signed) Churchwardens."

Form of declaration of vote.

IV. The said declaration shall be to the following effect:

"I, A. B., of Street [*or*, place or house], in this parish of , vote [for or against, as the case may be,] the adoption of the Act of the second year of the reign of William the Fourth, chapter , for the better regulation of vestries, by this parish."

Churchwardens to examine the votes, and declare whether two thirds are in favour of adopting Act.

A majority of ratepayers must vote.

V. The said churchwardens shall carefully examine the votes to them delivered as aforesaid, and shall compare them with the last rate made for the relief of the poor of the said parish, and shall be empowered to call before them and examine any parish officer touching the said votes, or any ratepayer so giving his vote, and, after a full and fair summing-up of the said votes, shall, by public notice according to the form and manner hereinafter prescribed, declare whether or not two-thirds of the votes given have been given in favour of the adoption of the said Act: Provided always, that the whole number of persons voting shall

be a clear majority of the ratepayers of the parish: Provided also, that the adoption or non-adoption of this Act shall be decided by such number of votes as aforesaid. Sect. 5.

VI. Provided always, that any of the ratepayers of the aforesaid parish, not exceeding five together, may inspect, at or in the vestry room, or in some convenient place within the same parish, and they are hereby empowered to inspect, the votes so given for and against the adoption of this Act, at all seasonable times within one month after such notice shall have been given; and the churchwardens of the said parish are hereby required carefully to preserve the said votes, and freely to permit and allow the examination thereof by the aforesaid ratepayers of the said parish at such seasonable times within the period aforesaid. Ratepayers may inspect votes, &c.

VII. Provided always, that no person shall be deemed a ratepayer, or be entitled to vote, or do any other act, matter, or thing, as such, under the provisions of this Act, unless he or she shall have been rated to the relief of the poor for the whole year immediately preceding his so voting or otherwise acting as such ratepayer, and shall have paid all the parochial rates, taxes, and assessments due from him or her at the time of so voting or acting, except such as have been made or become due within the six months immediately preceding such voting. No person to vote, &c., unless he has been rated one year, and paid all arrears of rates, &c.

VIII. Notice of the adoption of this Act by any parish shall be forthwith given by the churchwardens for the time being of the said parish in the *London Gazette*, and in one or more of the public newspapers circulating in the county in which the said parish may be situated, and by affixing a notice of the same to the principal doors of every church and chapel within the said parish; which notice shall be to the following effect: Notice to be given of adoption of the Act.

"Parish of [here insert the name of parish].

"NOTICE is hereby given, that the above-named parish has adopted the Act of the second year of the reign of King William the Fourth, chapter , intituled 'An Act' [here insert the title of the Act]; and that the numbers of the majority and minority of votes given for and against the adoption of the said Act are as follows; that is to say, votes for the adoption thereof, and votes against the adoption thereof.

"Dated this day of , in the year of our Lord .

"(Signed) Churchwardens."

IX. Provided always, that if the ratepayers shall determine, in the manner as aforesaid, against the adoption of this Act, then and in that case it shall not be lawful to make another requisition for the same purposes within three years after such determination. Where adoption is negatived no similar requisition shall be made within three years.

Sect. 10.

If Act adopted, vestrymen and auditors to be elected hereunder as herein-after mentioned.

X. In any parish in which public notice of the adoption of this Act in the manner as aforesaid shall be so made and given, this Act shall immediately become the law for electing vestrymen and auditors of accounts of the said parish in manner hereinafter mentioned.

Churchwardens and others refusing to call meetings, give notices, or receive votes, &c., to be guilty of misdemeanour.

XI. If any churchwarden, rate collector, overseer, or other parish officer shall refuse to call meetings according to the provisions of this Act, or shall refuse or neglect to make and give the declarations and notices directed to be made and given by this Act, or to receive the vote of any ratepayer as aforesaid, or shall in any manner whatsoever alter, falsify, conceal, or suppress any vote or votes as aforesaid, such churchwarden, rate collector, overseer, or other parish officer shall be deemed and taken to be guilty of a misdemeanour.

Notice to be given of annual election of vestrymen and auditors.

XII. On some Sunday, at least twenty-one days previously to the day of annual election of vestrymen, notice of election pursuant to this Act, signed by the churchwardens, shall be affixed to the principal doors of every church and chapel of the said parish, and at other usual places, in the following terms:

"Parish of [here insert name of parish].

"THE parishioners duly qualified according to the provisions of the Act of the second year of the reign of King William the Fourth, intituled 'An Act' [here insert the title of the Act], are hereby required to meet at , on the day of , conformably to the provisions of the said Act, and then and there to consider of and elect fit and proper persons to be vestrymen and auditors of accounts of the parish of for the ensuing year; that is to say,

" Members of the Vestry.
" Auditors of Accounts."

Rate collectors may be summoned to assist at the election.

XIII. The churchwardens may summon the rate collectors to attend them on the said day of annual election, in order to assist them in ascertaining that the persons presenting themselves to vote are parishioners rated to the relief of the poor of the said parish, and duly qualified to vote at the said election.

Annual election of vestrymen and auditors, after nomination of inspectors of votes.

XIV. On the day of annual election for vestrymen and auditors in any parish adopting this Act, each parishioner then rated, and having been rated to the relief of the poor one year, desirous of voting, do meet at the place appointed for such election, then and there to nominate eight ratepayers of the said parish as fit and proper persons to be inspectors of votes, four of such eight to be nominated by the churchwardens, and the other four to be nominated by the meeting; and after such nomination the said parishioners shall elect such parishioners duly qualified as may be there proposed for the offices of vestrymen and auditors; and the chairman shall at such meeting

declare the names of the parishioners who have been elected by a majority of votes at such meeting.

A poll may be demanded, which shall be taken by ballot.

XV. Provided always, that any five ratepayers may then and there, in writing or otherwise, demand a poll, which shall be taken by ballot, each ratepayer delivering to the aforesaid inspectors two folded papers, one of which papers shall contain the names of the persons for whom such parishioner may vote as fit and proper to be members of the vestry, and the other shall contain the names of the persons for whom such parishioner may vote as fit and proper to be auditors of accounts: Provided always, that each ratepayer shall have one vote and no more for the members of the vestry, and one vote and no more for the auditors of accounts to be chosen in the said parish.

Ratepayers to have one vote for vestrymen and one for auditors.

Mode and duration of voting.

XVI. The inspectors of votes shall deposit the said folded lists, without previously opening the same, in two separate sets of balloting glasses or boxes, one set for the vestry lists, and another for the auditors' lists; and the said balloting glasses or boxes shall be closed at the time fixed for the termination of the voting, that is, at four of the clock of the afternoon of the last day of election.

Duty of inspectors of votes.

XVII. After the close of the said ballot the aforesaid inspectors shall proceed to examine the said votes, and if necessary shall continue the examination by adjournments from day to day, not exceeding four days, Sunday excepted, until they shall have decided upon the persons, duly qualified according to the provisions of this Act, who may have been chosen to fill the aforesaid offices.

Provision in case of equality of votes.

XVIII. If any equality of votes should appear to the aforesaid inspectors to be given for any two or more persons to fill any or either of the said offices, in that case the inspectors shall decide by lot upon the person or persons so to be chosen.

Penalty for forging or falsifying any vote, &c., or obstructing the election.

XIX. If any person do forge or in any way falsify any name or writing in any paper or list purporting to contain the vote or votes of any parishioner as aforesaid so voting for vestrymen or auditors, or do by any contrivance attempt to obstruct or prevent the purposes of such mode of election, the persons so offending shall, upon information laid, and conviction before any two or more justices of the peace having jurisdiction in the parish so adopting this Act, be liable to a penalty of not less than ten and not more than fifty pounds, and in default of payment thereof shall be imprisoned for a term not exceeding six nor less than three months; and any fine so levied shall be given, half to the informer who shall have informed against the person so offending, and the other half to the poor of the parish in which the said offence shall have been committed.

Sect. 20.

List of elected vestrymen and auditors to be made out and published.

XX. The aforesaid inspectors shall, immediately after they shall have decided upon whom the aforesaid elections have fallen, deliver to the churchwardens, or to one of them, serving for the parish so adopting this Act, a list of the persons chosen by the parishioners to act as vestrymen and auditors of accounts; and the said list, or a copy thereof, shall be affixed to the doors of the churches and chapels or other places chosen for the purposes of public notice in the said parish.

Penalty on inspectors making incorrect returns.

XXI. If any inspector as aforesaid shall wilfully make or cause to be made an incorrect return of the said votes, every such offender shall, upon information laid by any person before two or more justices of the peace having jurisdiction in the said parish, and upon conviction for such offence, be liable to a penalty of not less than twenty-five pounds and not exceeding fifty pounds.

Time, duration, and place of annual elections.

XXII. In all parishes adopting this Act the meeting of parishioners for the election of the vestrymen and auditors of accounts by the parishioners shall take place in the month of May in every year: Provided always, that when a ballot is demanded at such election the same shall commence on the following day, and continue for three successive days, commencing at eight of the clock of the forenoon and closing at four of the clock in the afternoon on each day: Provided also, that the day on which such elections shall commence shall in the first instance be appointed by the churchwardens of the parishes adopting this Act, but in every subsequent year shall be appointed by the vestry: Provided always, that when by reason of the populousness of any parish the said parish shall have been or shall be divided into districts for ecclesiastical or other purposes, then and in that case the said votes shall be taken, according to the aforesaid mode of election, in some convenient place, at the discretion of the churchwardens, in each of the several districts of the said parish.

Vestry to consist of not less than twelve nor more than 120 householders, according to number of ratepayers in parish.

XXIII. In all parishes adopting this Act the vestry appointed and elected as herein-before mentioned shall, when the said Act shall come into full effect, consist of a certain number of resident householders; that is to say, twelve vestrymen for every parish in which the number of rated householders shall not exceed one thousand; and twelve other additional vestrymen, that is twenty-four vestrymen, for every parish in which the rated householders shall exceed one thousand; and twelve other additional vestrymen, that is thirty-six vestrymen, for every parish in which the number of rated householders shall exceed two thousand; and so on at the proportion of twelve additional vestrymen for every thousand rated householders: Provided always, that in no case the number of vestrymen shall exceed one hundred and twenty: Provided always, that in any parish wherein a greater number of vestrymen are given by special Act of

Sect. 23.

Parliament than the proportions aforesaid will amount to, that then the number of vestrymen shall remain the same as given by such Act of Parliament; and provided always, that the rector, district rectors, vicar, perpetual curate, and churchwardens of the said parish shall constitute a part of the said vestry, and shall vote therein, in addition to the vestrymen as aforesaid elected under this Act: Provided always, that no more than one such rector or other such minister as aforesaid, from any one parish or ecclesiastical district as aforesaid, shall *ex officio* be a part of or vote at any vestry meeting.

Rector, &c., and churchwardens to be members *ex officio*.

XXIV. At the first election for vestrymen after the adoption of this Act in any parish one-third of the then existing vestry, or the nearest number thereto, but not exceeding the same, shall retire from office (such portion to be determined by lot), and the parishioners duly qualified shall elect a number of vestrymen equal to one-third of the vestry to be chosen according to the provisions of this Act; and on the next ensuing annual election for vestrymen one-half, or as nearly as may be one half of the remaining part of the first aforesaid vestry shall retire from office (such portion to be determined by lot), and the parishioners duly qualified shall again elect a number of vestrymen equal to one-third of the vestry to be chosen according to the provisions of this Act; and on the next, that is to say, the third annual election for vestrymen, the last remaining portion of the vestry as aforesaid shall retire from office, and the parishioners duly qualified shall elect vestrymen in like manner and number as at the two preceding elections, so as to fill up the vestry to the exact number of vestrymen prescribed by this Act.

One-third of first elected vestrymen to go out of office at each of three first elections under this Act.

XXV. At every subsequent annual election those vestrymen who have been three years in office shall go out of office, and the parishioners shall elect, according to the provisions of this Act, other vestrymen, to the number of one-third of the total number of which such vestry shall consist, as also fill up any vacancies which may have occurred from death or other causes: Provided always, that any or all of the vestrymen so going out by rotation may be immediately eligible for re-election.

Subsequent vestrymen to quit office after three years, and vacancies to be supplied; outgoing vestrymen re-eligible.

XXVI. The vestry elected under this Act in any parish not within the metropolitan police district or the city of London shall consist of resident householders rated or assessed to the relief of the poor upon a rental of not less than ten pounds; and no person shall be capable of acting as one of the said vestry unless he shall be the occupier of a house, lands, tenements, or hereditaments, rated or assessed upon the afore-mentioned amount of rental within the parish for which he is to serve: Provided always, that if the parish adopting this Act should be within the metropolitan police district or the city of London, or the resident householders therein should amount to more than

Qualifications of vestrymen.

Sect. 26.

three thousand, then and in that case the vestry elected under this Act shall consist of resident householders rated or assessed to the relief of the poor of such parish upon a rental of not less than forty pounds per annum.

Vestries appointed after the adoption of this Act to exercise the powers, &c., of former vestries.

XXVII. From and after the adoption of this Act in any parish the vestry shall exercise the powers and privileges held by any vestry now existing in such parish, and the authority of such vestry may be pleaded before any justice or justices of the peace, or in any court of law, in regard to all parochial property, or monies due, or holdings or contracts, or other documents of the like nature, formerly under the control or in the keeping of the said vestry of the said parish; and all parish officers or boards shall account to them in like manner as they have accounted to the said vestry: Provided always, that nothing in this Act shall be deemed, construed, or taken to repeal, alter, or invalidate any local Act for the government of any parish by vestries, or for the management of the poor by any board of directors and guardians, or for the due provision for divine worship within the parish, and the maintenance of the clergy officiating therein, otherwise than is by this Act expressly enacted regarding the election of vestrymen and auditors of accounts.

This Act not to affect local Acts as to vestries, poor, divine worship, &c., except as herein expressed.

The acts of a majority at a meeting where a quorum of the vestry is present shall be considered as the acts of the vestry.

XXVIII. All powers or duties to be performed by the vestry of any parish adopting this Act may be exercised and performed respectively by the major part of such vestry assembled at any meeting, there not being less than five vestrymen present at a meeting of a vestry which consists of twelve or more elected vestrymen and not exceeding twenty-three, and not being less than seven vestrymen present at a meeting of a vestry which consists of twenty-four or more elected vestrymen and not exceeding thirty-five, and not being less than nine vestrymen present at a meeting of a vestry which consists of thirty-six elected vestrymen or upwards; and all orders and directions given, and all contracts and engagements entered into by the vestrymen present at any such meeting, or the major part of them then assembled, shall be as valid and effectual as if the same were done by all the said vestrymen for the time being, and shall be binding and conclusive on all such vestrymen, provided that the same is confirmed at the next subsequent meeting of the vestry.

Holding of meetings where vestry room is too small.

XXIX. In any case in which the vestry room of any parish in any city or town shall not be sufficiently large and commodious for any vestry meeting, such meeting shall be held elsewhere within the said parish or place, but not in the church or chapel thereof.

Sect. 29.

Note.

For powers of vestries to acquire a vestry room see the Vestries Act, 1850 (13 & 14 Vict. c. 57).

Sect. 30.

Chairman of meetings.

XXX. At every meeting of any vestry, in the absence of the persons authorized by law or custom to take the chair, the members present shall elect a chairman for the occasion before proceeding to other business.

Proceedings of vestry to be entered in books, which shall be open to inspection.

XXXI. The vestry of every parish adopting this Act shall cause to be provided and kept a proper book or books, and proper entries to be made therein of the names of the several vestrymen who shall attend the respective meetings of the vestry, and of all orders and proceedings made or taken at such meetings; and all such books shall at all reasonable times be open to the inspection of the said vestrymen, and of any person rated or assessed to the relief of the poor of the said parish, and of any creditor on the rates of the said parish, without fee or reward; and the said vestrymen, persons, and creditors, or any of them, shall and may take copies of or extracts from such books respectively, without paying anything for the same; and in case the clerk to the said vestry, or other person having the care of such books, shall refuse to permit or shall not permit the said vestrymen or such persons or creditors to inspect the same, or to take such copies or extracts as aforesaid, such clerk or other person shall forfeit and pay any sum of money not exceeding ten pounds for every such offence.

Account book to be kept, and to be open to inspection.

XXXII. The said vestry shall and they are hereby required to cause a book or books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and disbursed for or on account of parochial purposes, and of the several articles, matters, and things for which such sums of money shall have been so received and disbursed; which book or books shall at all seasonable times be open to the inspection of the said vestrymen, and of any person or persons rated to the relief of the poor of the said parish, and of any creditor or creditors on the same, without fee or reward; and the said vestrymen and persons and creditors as aforesaid, or any of them, shall and may take copies of or extracts from the said book or books, or any part or parts thereof, without paying anything for the same; and in case the clerk to the said vestrymen, or other person with whom such books shall remain, shall on any reasonable demand refuse to permit or shall not permit the said vestrymen, persons, or creditors, or any of them, to inspect the said book or books, or to take such copies or extracts as aforesaid, such clerk or other person as aforesaid shall forfeit and pay any sum not exceeding ten pounds for every such offence.

Five auditors to be chosen annually.

XXXIII. In any and every parish adopting this Act the parishioners duly qualified to vote for vestrymen as aforesaid shall elect five ratepayers of the said parish, who shall have signified in writing their assent to serve, to be auditors of accounts, which auditors shall be so elected on the first day on

Sect. 33.

which the vestrymen be chosen after such parish shall have adopted this Act, and according to the same forms of voting as are herein-before prescribed for the election of the said vestry: Provided always, that no person shall be eligible to fill the said office of auditor of accounts who shall not be qualified according to the provisions of this Act, as herein-before stated, to fill the office of vestryman for the said parish; and provided always, that no person shall be eligible to fill the said office of auditor of accounts who shall be one of the vestry for the said parish; and if any person on the day of annual election shall be chosen to be both a member of the vestry and an auditor of accounts, the said vestry at their first meeting after such election shall declare the said person incapable of acting as vestryman: Provided also, that no person shall be eligible to fill the said office of auditor of accounts who shall be interested either directly or indirectly in any contract, office, business, or employ, or in providing or supplying any materials or articles for the parish for which he is to serve; and any person who shall be discovered, after his election, to be so interested, shall cease to be an auditor.

Qualifications of auditors.

Half-yearly audit of accounts of vestry.

XXXIV. The aforesaid auditors of accounts shall meet twice at least in each year, at the board room of the vestry, and (a majority of the said auditors being present at such meetings) shall proceed to audit the accounts of the said vestry for the preceding half year, in presence of the vestry clerk; and the said vestry are hereby required, by their said clerk, to produce and lay before the said auditors at every such meeting a true and just statement or account in writing, accompanied with proper vouchers of all sums of money which may have come to the hands of the said vestry or of their treasurer, and also of all monies paid, laid out, or expended by them, or by any churchwardens, overseers, surveyors, or other persons by them employed, and responsible to the said vestry, since the last period up to which the accounts of the said vestry were audited; and in all parishes in which other boards shall have control over any part of the parochial expenditure, the said auditors shall have the same power of examining the accounts and officers thereof as of examining the accounts and officers of the vestry, and shall audit the accounts of the said boards in the same manner as they audit the accounts of the said vestries.

Auditors may require attendance of parish officers, &c., with books.

XXXV. The said auditors shall have power to summon and call before them, by a writing for that purpose, signed by any one of them, or by the clerk of the vestry of any parish adopting this Act, any parish officer or other person or persons whatsoever concerned in the said accounts, and to require of him or her or them to attend the said auditors at any meeting or adjourned meeting, and to bring with them all books of accounts, writings, papers, and documents required, which may

concern the said accounts, and to give such information as to the particulars of such accounts as he, she, or they shall be enabled to give; and any parish officer or other person refusing so to attend, or otherwise wilfully obstructing the purposes of such inquiry, shall be deemed guilty of a misdemeanour.

Sect. 35.

Refusal to attend, &c., a misdemeanour.

XXXVI. The said accounts, when audited and approved by the said auditors, or by the major part of them, shall be by them signed in the presence of the clerk of the aforesaid vestry of any parish adopting this Act, and the said clerk of the vestry shall also affix his signature to the same; and it shall be lawful for the aforesaid auditors to subjoin such remarks thereto as to them shall seem meet.

Accounts to be signed by auditors and clerk of vestry.

XXXVII. The said accounts, when so audited and signed, shall remain at the office of the clerk of the said vestry; and the said accounts shall after such audit be open and accessible for the examination, at all seasonable times, of any person rated to the relief of the poor of the said parish, and of any creditor on the rates thereof: Provided always, that nothing in this Act contained relative to the appointment and duty of auditors shall debar the parishioners from any remedy by them before possessed by the law of the land.

Accounts after audit to be open to inspection.

XXXVIII. An abstract of the accounts of all monies received and disbursed by the vestry in any parish adopting this Act shall twice in every year, within fourteen days after the same shall have been audited in manner in this Act mentioned, be made out by the said vestry, either in writing or in print, and a copy of such abstract shall be delivered to all persons applying for the same, and rated or assessed to the relief of the poor of the said parish, such person paying one shilling for the same; and which copies the said clerk is hereby required to cause to be published either in writing or print, and distributed accordingly.

Abstracts of accounts to be published within fourteen days after audit.

XXXIX. In any parish adopting this Act the vestry shall cause to be made out, once at least in every year, a list of the several freehold, copyhold, and leasehold estates, and of all charitable foundations and bequests, if any, belonging to the said parish, and under the control of the said vestry, the said list to contain a true and detailed account of the place where such estate or charitable foundation may be situate, or in what mode and security such bequest may be invested, specifying also the yearly rental of each, and the particular appropriation thereof, together with the names of the persons partaking of

Vestry to make out and publish yearly a list of parish estates, charities, and bequests, &c., with the particulars and application thereof.

Sect. 39.

Note.

The section is excepted from the general repeal of the Act by the Local Government Act, 1894, so far as it relates to parish meetings under that Act.

Sect. 39.

their benefit (except where such benefit shall be allotted to the poor of the parish generally), and to what amount in each case, and also stating the name and description of the persons in whom such estates are vested, and the names and description of the trustees for each charity: Provided always, that the aforesaid list shall be open for the inspection of the ratepayers, at the office of the vestry clerk, at the same time with the accounts, when audited according to the provisions of this Act.

Saving of ecclesiastical laws and jurisdiction, except as to appointment of vestries.

XL. Provided always, that this Act or anything therein contained shall not extend or be construed to extend to invalidate or avoid any ecclesiastical law or constitution of the Church of England, save and except so far as concerns the appointment of vestries, or to destroy any of the rights or powers belonging to the archbishops, bishops, deans, or other of the clergy of the said established Church, either as individuals or as corporate bodies, or in anywise to abridge or control their ordinary jurisdiction over or relating to any matter or thing respecting the ministers thereof.

Meaning of terms used in this Act.

XLI. In this Act, the word "justice" shall be deemed to mean justice of the peace; and the words "person" and "party" shall be deemed to include any number of persons or parties; and the words "justices of the peace of the county or city" shall be deemed to include justices of the peace of any division of a county, liberty, division of a liberty, precinct, county of a city, county of a town, cinque port, or town corporate; and the word "parish" shall be deemed to include any liberty, precinct, township, hamlet, tithing, vill, extra-parochial place, or any place maintaining its own poor; and the word "ratepayers" shall include "leypayers;" and the meaning of the several words in this Act shall not be restricted, although the same may be subsequently referred to in the singular number or masculine gender only.

Meaning of "church or chapel" as regards affixing notices.

XLII. The words "church or chapel," insomuch as regards the affixing of notices as by this Act directed, shall be deemed to include all places of religious worship according to the forms of the established Church; and in any parish or place not having a parish church or chapel as aforesaid the said notices shall be affixed to some public building within the limits of the said parish or place.

Provision for parish having no church or chapel.

Act not to extend to rural parishes where not more than 800 ratepayers.

XLIII. Provided always, that nothing in this Act contained shall extend to any parish not being within or being part of any city or town, in which parish there shall not be a greater number than eight hundred persons rated as householders, and having paid the rates for the relief of the poor within the year preceding that in which the provisions of this Act may be desired to be put in execution within such parish.

[Sect. 44. Repealed by the S. L. R. Act, 1888].

ALLOTMENTS ACT, 1832.

2 & 3 WILL. IV., CHAP. 42.

An Act to authorize (in Parishes inclosed under any Act of Parliament) the letting of the Poor Allotments in small Portions to industrious Cottagers. [1st June, 1832.]

WHEREAS in parishes inclosed under Acts of Parliament there are in many cases allotments made for the benefit of the poor, chiefly with a view to fuel, which are now comparatively useless and unproductive: And whereas it would tend much to the welfare and happiness of the poor if those allotments could be let at a fair rent, and in small portions, to industrious cottagers of good character, while the distribution of fuel might be augmented by appropriating the said rents to the purchase of an additional quantity: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that it shall and may be lawful for the trustees of the said allotments, together with the churchwardens and overseers of the poor in parish vestry assembled, and they are hereby required, to let portions of any such allotments *not less than one-fourth of a statute acre, and* not exceeding one such acre, to any one individual, according to their discretion, as a yearly occupation from Michaelmas to Michaelmas (and at such rent as land of the same quality is usually let for in the said parish), to such industrious cottagers of good character, being day labourers or journeymen legally settled in the said parish, and dwelling within or near its bounds, as shall apply for the same in the manner herein-after mentioned.

Trustees and parish officers in vestry assembled shall let portions of poor allotments to industrious cottagers.

Sect. 1.

Note.

The provision in this section fixing the minimum at one-fourth of an acre is repealed by the Poor Allotments Management Act, 1873 (36 & 37 Vict. c. 19), s. 10; and by sect. 3 of that Act, a committee of not more than twelve, and not less than six of their number, is substituted for the whole number of allotment trustees when such number exceeds twenty; and a committee of not more than twelve, and not less than six members of the vestry, is substituted for the whole vestry when the number of persons entitled to attend the vestry exceeds twenty. The powers and duties of the vestry, or of any committee thereof, in respect of allotments, is in rural parishes transferred to the parish council by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6, subs. (1) (a) and (4); but it is doubtful whether the powers and duties of trustees of allotments for the poor under private Inclosure Acts are necessarily transferred to the parish councils under sect. 6 (4) of that Act; but they may be voluntarily so transferred under sect. 14 (1) of that Act. (See Brooke Little's Law of Allotments, 2nd ed., p. 10.)

Sect. 2.

Land to be duly cultivated.

II. Provided also, that the person hiring the same shall be held bound to cultivate it in such a manner as shall preserve the land in a due state of fertility.

Vestry to be held annually to receive applications.

III. For the purpose of carrying this Act into effect a vestry shall be held in the first week in September in every year, of which ten days' notice shall be given in the usual manner, at which vestry the trustees of the said allotments may attend and vote, if they shall so think fit, and at which vestry, or some adjournment thereof, any industrious cottager of good character who may desire to rent such portion of land as aforesaid may apply for the same; and the said vestry are hereby required, taking into consideration the character and circumstances of the applicant, to determine the case, either by rejecting his application, or by making an order that he shall be permitted to occupy such portion of the poor allotment, *being not less than one-fourth of a statute acre*, nor exceeding one such acre, as the said vestry in their discretion shall determine, and upon the terms hereinbefore enacted; and the said order of vestry shall be held to all intents and purposes to be a sufficient title and authority to such applicant to enter into the occupation of such land at the time therein appointed.

Order of vestry to authorize occupation.

Payment of rent.

IV. Provided always, that the rent shall be reserved and payable to the churchwardens and overseers of the poor, on behalf of the vestry, in one gross sum for the whole year, and shall be paid to one or either of them at the end of the year's occupation.

If rent is in arrear, or land not duly cultivated, tenant may be evicted.

V. If the rent of such portion of land shall at any time be four weeks in arrear, or if at the end of any one year of occupation it shall be the opinion of the vestry that the land has not been duly cultivated, so as to fulfil the useful and

---

Sect. 3.

Note.

The words in italics are repealed by the Poor Allotments Management Act, 1873 (36 & 37 Vict. c. 19), s. 10.

For transfer of the powers of the vestry with respect to allotments in rural parishes to the parish council or the parish meeting, see the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 6 (1) (a), 19 (4), and 52 (5).

Sect. 4.

Note.

In rural parishes the rent will be payable to the parish council, instead of to the churchwardens and overseers (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (c)). If there is no parish council it will be payable to the overseers alone (*Id.* s. 5 (2) (b)).

By the Poor Allotments Management Act, 1873 (36 & 37 Vict. c. 19), s. 12, the rent reserved may be paid in advance; but by the Allotments Extension Act, 1882 (45 & 46 Vict. c. 80), s. 6, it is declared that that provision shall have no application to any lands with regard to which the provisions of this Act have been put into operation.

benevolent purposes of this Act, then and in such case the churchwardens and overseers of the poor, or any or either of them, with the consent of the vestry, may serve a notice to quit upon the occupier of such portion of land; whereupon the said occupier shall deliver up possession of the same to the churchwardens and overseers aforesaid, or any or either of them, within one week after the said notice has been duly served upon him. Sect. 5.

Power to recover possession of land illegally held over, or unlawfully entered upon, by summary process.

VI. If any person to whom such portion of land as aforesaid shall have been let for his or her own occupation, shall refuse to quit and to deliver up possession thereof when thereto required according to the terms of this Act, or if any other person or persons shall unlawfully enter upon or take or hold possession of any such land, it shall be lawful for the churchwardens and overseers of the poor, or any or either of them, to exhibit a complaint against the person so in possession of such land before two of His Majesty's justices of the peace, who are hereby authorized and required to issue a summons under their hands and seals to the person against whom such complaint shall be made, to appear before them at a time and place appointed therein; and such justices are hereby required and empowered, upon the appearance of the defendant before them, or upon proof on oath that such summons has been duly served upon him, or left at his usual place of residence, or if there should have been any difficulty in finding such usual place of residence, then upon proof on oath of such difficulty, and that such summons has been affixed on the door of the parish church of the said parish in which such land is situated, and in any extra-parochial place on some public building or other conspicuous place therein, to proceed to hear and determine the matter of such complaint, and if they shall find and adjudge the same to be true, then by warrant under their hands and seals to cause possession of the land in question to be delivered to the churchwardens and overseers of the poor, or to some of them.

Arrears of rent, how to be recovered.

VII. All arrears of rent for the said portions of land shall be recoverable by the churchwardens and overseers of the poor, or

---

Sect. 5. Note.

The notice to quit may be signed by three members of the committee, appointed under 36 & 37 Vict. c. 19 (see sect. 11 of that Act).

For transfer of powers and duties from the vestry and churchwardens and overseers of a rural parish see notes to sects. 1, 3, 4, *supra*.

Sects. 6 & 7. Note.

For transfer of powers and duties from the vestry and churchwardens and overseers of a rural parish see notes to sects. 1, 3, 4, *supra*.

Sect. 7.

any of them, on behalf of the vestry, by application to two of His Majesty's justices of the peace in petty sessions assembled, who shall thereupon summon the party complained against, and after hearing what he has to allege, should they find any rent to be due, they are required to issue a warrant under their hands and seals to levy the same upon the goods and chattels of the person from whom the said rent shall be due and owing.

Application of rent.

VIII. The rent of the said portions of land shall be applied by the vestry in the purchase of fuel, to be distributed in the winter season among the poor parishioners legally settled and resident in or near the said parish.

Allotments may be let to other persons, and lands of equal value hired in exchange, for greater convenience of cottagers.

IX. If any of the said allotments shall be found to lie at an inconvenient distance from the residences of the cottagers, it shall be lawful for the vestry by an order made to that effect to let such allotment, or any part thereof, for the best rent that can be procured for the same, and to hire in lieu thereof for the purposes of this Act land of equal value more favourably situated.

No habitations to be erected on the portions let.

X. No habitations shall be erected on the portions of land demised under this Act, either at the expense of the parish or by the individuals renting the same.

XI. And whereas by two Acts of the first and second years of the reign of His present Majesty, intituled "An Act to amend an Act of the fifty-ninth year of His Majesty King George the Third, for the Relief and Employment of the Poor," and the other intituled "An Act to enable the churchwardens and overseers to inclose lands belonging to the Crown, for the benefit of poor persons residing in the parish in which such Crown land

---

Sect. 8. Note.

By the Poor Allotments Management Act, 1873 (36 & 37 Vict. c. 19), s. 13, the "functionaries" in whom the lands are vested are to be deemed the occupiers, and to pay all rates, taxes and rent-charge.

This section is not to apply to lands acquired under the Acts recited in sect. 11, *infra* (see 36 & 37 Vict. c. 19, s. 14).

Sect. 9. Note.

As to transfer of powers of the vestry see notes to sects. 1, 3, 4, *supra*.

Sect. 11. Note.

By the Poor Allotments Management Act, 1878 (36 & 37 Vict. c. 19), s. 14, the rents of lands acquired under the Acts recited in this section are not to be applied in purchase of fuel, but are to be applied in aid of the poor rate.

is situated," power is given, under certain restrictions, to inclose any quantity not exceeding fifty acres of waste land and Crown land respectively, for the use and benefit of the poor: Be it further enacted, that in any parish where such inclosure shall exist or shall hereafter take place, or where land shall in any other manner be found appropriated for the general benefit of the poor of any parish, then and in such cases the powers and provisions of this Act shall be held to apply in so far as the same may be found applicable.

Sect. 11.

Powers, &c., of this Act shall extend to lands inclosed under 1 & 2 Will. 4, c. 42 and c. 59.

REPRESENTATION OF THE PEOPLE ACT, 1832.*

2 & 3 WILL. IV., CHAP. 45.

An Act to amend the Representation of the People in England and Wales. [7th June, 1832.]

[This Act and the Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), although having but little direct bearing upon the Poor Law, together impose duties upon overseers in respect of the registration of voters, &c. So much only of these Acts, therefore, as relates to matters connected with the Poor Law or to such duties, or is requisite for elucidating sections dealing with such matters, is fully annotated in this work.]

WHEREAS it is expedient to take effectual measures for correcting divers abuses that have long prevailed in the choice of members to serve in the Commons' House of Parliament, to deprive many inconsiderable places of the right of returning members, to grant such privilege to large, populous, and wealthy towns, to increase the number of knights of the shire, to extend the elective franchise to many of His Majesty's subjects who have not heretofore enjoyed the same, and to diminish the expense of elections; . . .

[Sects. 1, 5, 12, 15, 17 are repealed by the S. L. R. Act, 1888 sects. 7, 9, and parts of sects. 10, 11 are repealed by the S. L. R. Act, 1890; sects. 2—4, 6, 8, 10, 11, 16 relate to the distribution of seats, and the returning officers for new boroughs.]

XVIII. No person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament, or in the election of a member or members to serve in any future Parliament for any city or town being a county of itself, in respect of any freehold lands or tenements whereof such person may be seised for his own life,

Limitation on the right of voting for counties and for cities or towns being counties of

* Better known as the Reform Act.

Sect. 18.

themselves, in respect of freeholds for life.

or for the life of another, or for any lives whatsoever, except such person shall be in the actual and *bonâ fide* occupation of such lands or tenements, or except the same shall have come to such person by marriage, marriage settlement, devise, or promotion to any benefice or to any office, or except the same shall be of the clear yearly value of not less than *ten pounds* above all rents and charges payable out of or in respect of the same; any statute or usage to the contrary notwithstanding: Provided always, that nothing in this Act contained shall prevent any person now seised for his own life, or for the life of another, or for any lives whatsoever, of any freehold lands or tenements in respect of which he now has, or but for the passing of this Act might acquire, the right of voting in such respective elections, from retaining or acquiring, so long as he shall be so seised of the same lands or tenements, such right of voting in respect thereof, if duly registered according to the respective provisions herein-after contained.

[Sect. 19. *Right of voting in counties extended to* 10*l. copyholders:* Superseded by 30 & 31 Vict. c. 102, s. 5, and repealed by the S. L. R. Act, 1874.]

Right of voting in counties extended to leaseholders and occupiers of premises of certain value above charges.

XX. Every male person of full age, and not subject to any legal incapacity, who shall be entitled, either as lessee or assignee, to any lands or tenements, whether of freehold or of any other tenure whatever, *for the unexpired residue, whatever it may be, of any term originally created for a period of not less than sixty years* (*whether determinable on a life or lives, or not*), *of the clear yearly value of not less than ten pounds over and above all rents and charges payable out of or in respect of the same*, or for the unexpired residue, whatever it may be, of any term originally created for a period of not less than twenty years (whether determinable on a life or lives, or not), of the clear yearly value of not less than fifty pounds over and above all rents and charges payable out of or in respect of the same [or who shall occupy as tenants any lands or tenements for which he shall be *bonâ fide* liable to a yearly rent of not less than fifty pounds], shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament for the county, or for the riding, parts, or division of the county, in which such lands or tenements shall be respectively situate: Provided always, that no person, being only a sub-lessee, or the assignee of any underlease, shall have a right to vote in such election in respect of any such term of sixty years or twenty years as aforesaid, unless he shall be in the actual occupation of the premises.

Sect. 18. Note.

The limit of 10*l.* in this section is reduced to 5*l.* by 30 & 31 Vict. c. 102, s. 5.

Sect. 20. Note.

The words in italics are superseded by 30 & 31 Vict. c. 102, s. 5, and repealed by the S. L. R. Act, 1874. The words within square

Sect. 21.

What not to be deemed charges.

XXI. No public or parliamentary tax, nor any church rate, county rate, or parochial rate, shall be deemed to be any charge payable out of or in respect of any lands or tenements within the meaning of this Act.

County voters need not be assessed to the Land Tax.

XXII. In order to entitle any person to vote in any election of a knight of the shire or other member to serve in any future Parliament, in respect of any messuages, lands, or tenements, whether freehold or otherwise, it shall not be necessary that the same shall be assessed to the land tax; any statute to the contrary notwithstanding.

Provision as to trustees and mortgagees.

XXIII. No person shall be allowed to have any vote in the election of a knight or knights of the shire for or by reason of any trust estate or mortgage, unless such trustee or mortgagee be in actual possession or receipt of the rents and profits of the same estate, but that the mortgagor or cestuique trust in possession shall and may vote for the same estate notwithstanding such mortgage or trust.

No person to vote for a county in respect of any freehold house, &c., occupied by himself, which would confer a vote for a borough.

XXIV. Notwithstanding any thing herein-before contained no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament in respect of his estate or interest as a freeholder in any house, warehouse, counting-house, shop, or other building occupied by himself, or in any land occupied by himself together with any house, warehouse, counting-house, shop, or other building, such house, warehouse, counting-house, shop, or other building being, either separately, or jointly with the land so occupied therewith, of such value as would, according to the provisions herein-after contained, confer on him the right of voting for any city or borough, whether he shall or shall not have actually acquired the right to vote for such city or borough in respect thereof.

No person to vote for a county in respect of

XXV. Notwithstanding any thing herein-before contained no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future

---

Sect. 20. Note.

brackets are repealed by 48 & 49 Vict. c. 3, s. 12, except so far as relates to the rights of persons saved by that Act, and are replaced by the provisions of sect. 5 of that Act.

Sect. 23. Note.

This section is amended and applied to voters for cities and boroughs by 6 & 7 Vict. c. 18, s. 74.

Sect. 24. Note.

The "provisions herein-after contained" refer to sects. 27, 28, *infra*. This section is extended to franchises created by 30 & 31 Vict. c. 102, by sect. 59 of that Act.

Sect. 25. Note.

The words in brackets are repealed by the S. L. R. Act, 1890, except in so far as relates to the rights of persons saved by 48 & 49

Sect. 25.

copyholds and leaseholds which would confer a vote for a borough.

Parliament in respect of his estate or interest as a copyholder or customary tenant, or tenant in ancient demesne, holding by copy of court roll, or as such lessee or assignee [or as such tenant and occupier as aforesaid], in any house, warehouse, counting-house, shop, or other building, or in any land occupied together with a house, warehouse, counting-house, shop, or other building, such house, warehouse, counting-house, shop, or other building being, either separately, or jointly with the land so occupied therewith, of such value as would according to the provisions herein-after contained confer on him or on any other person the right of voting for any city or borough, whether he or any other person shall or shall not have actually acquired the right to vote for such city or borough in respect thereof.

No person to vote for a county unless registered.

No person to be registered unless he has been in possession for a certain time.

XXVI. Notwithstanding any thing herein-before contained no person shall be entitled to vote in the election of a knight or knights of the shire to serve in any future Parliament unless he shall have been duly registered *according to the provisions herein-after contained;* and that no person shall be so registered in any year in respect of his estate or interest in any lands or tenements, as a freeholder, copyholder, customary tenant, or tenant in ancient demesne, unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof for his own use, for six calendar months at least next previous to the *last day of July* in such year, which said period of six calendar months shall be sufficient, any statute to the contrary notwithstanding; and that no person shall be so registered in any year, in respect of any lands or tenements held by him as such lessee or assignee [or such occupier and tenant as aforesaid], unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof for his own use, as the case may require, for twelve calendar months next previous to the *last day of July* in such year: Provided always, that where any lands or tenements, which would otherwise entitle the owner, holder, or occupier thereof to vote in any such election, shall come to any person, at any time within such respective periods

Exception in case of property coming by descent, &c.

Sect. 25. Note.

Vict. c. 3, s. 10. This section is extended to franchises created by 30 & 31 Vict. c. 102, by sect. 59 of that Act.

Sect. 26. Note.

The words "according to the provisions herein-after contained" are repealed by 6 & 7 Vict. c. 18, and replaced by other provisions of that Act and the Acts amending the same. The "15th day of July" is substituted for the "last day of July," by 41 & 42 Vict. c. 26, s. 7; 48 & 49 Vict. c. 15, s. 12. The words within square brackets are repealed by the S. L. R. Act, 1890, except in so far as they refer to the rights of persons saved by 48 & 49 Vict. c. 3, s. 10. The section is applied to the 5*l.* property franchise in counties by 30 & 31 Vict. c. 102, s. 5.

Sect. 26.

of six or twelve calendar months, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or by promotion to any office, such person shall be entitled in respect thereof to have his name inserted as a voter in the election of a knight or knights of the shire in the lists then next to be made by virtue of this Act as herein-after mentioned, and, upon his being duly registered, *according to the provisions herein-after contained*, to vote in such election.

Right of voting in boroughs to be enjoyed by occupiers of houses, &c., of the annual value of 10*l*.

XXVII. In every city or borough which shall return a member or members to serve in any future Parliament, every male person of full age, and not subject to any legal incapacity, who shall occupy, within such city or borough, or within any place sharing in the election for such city or borough, as owner or tenant, any house, warehouse, counting-house, shop, or other building, being, either separately or jointly, with any land within such city, borough, or place occupied therewith by him as owner, or occupied therewith by him as tenant under the same landlord, of the clear yearly value of not less than ten pounds, shall, if duly registered according to the provisions herein-after contained, be entitled to vote in the election of a member or members to serve in any future Parliament for such city or borough: Provided always, that no such person shall be so registered in any year unless he shall have occupied such premises as aforesaid for twelve calendar months next previous to the *last day of July* in such year, nor unless such person, where such premises are situate in any parish or township in which there shall be a rate for the relief of the poor, shall have been rated in respect of such premises to all rates for the relief of the poor in such parish or township made during the time of such his occupation so required as aforesaid, nor unless such person shall have paid, on or before the twentieth day of July in such year, all the poor's rates and assessed taxes which shall have become payable from him in respect of such premises previously to the *sixth day of April* then next preceding: Provided also, that no such person shall be so registered in any year unless he shall

No occupier to be registered unless he has been occupier for twelve months and been rated to the poor rate, if any;

nor unless he has paid the poor rate and assessed taxes.

Residence for six months also required.

Sect. 27.

Note.

So much of this section as relates to the residence of electors within seven miles of any city or borough is repealed in respect to electors otherwise qualified to be registered and to vote for members to serve in Parliament for the city of London, by 30 & 31 Vict. c. 102, s. 46; the seven miles being extended to twenty-five miles from London by that section. And the whole section is repealed by 48 & 49 Vict. c. 3, s. 12, except as to the rights of persons saved by that Act, and except in so far as it contains conditions made applicable by that Act to any franchise enacted by that Act.

The "15th day of July" is substituted for the "last day of July" by 41 & 42 Vict. c. 26, s. 7; 48 & 49 Vict. c. 15, s. 12; and the "5th day of January" for the "6th day of April" by 11 & 12 Vict. c. 90.

The words "house, warehouse, counting-house, shop, or other building" are explained in 41 & 42 Vict. c. 26, s. 5.

Sect. 27.

have resided for six calendar months next previous to the *last day of July* in such year within the city or borough, or within the place sharing in the election for the city or borough, in respect of which city, borough, or place respectively he shall be entitled to vote, or within seven statute miles thereof or of any part thereof.

Premises may be occupied in succession.

XXVIII. The premises in respect of the occupation of which any person shall be entitled to be registered in any year, and to vote in the election for any city or borough as aforesaid, shall not be required to be the same premises, but may be different premises occupied in immediate succession by such person during the twelve calendar months next previous to the *last day of July* in such year, such person having paid, on or before the twentieth day of July in such year, all the poor's rates and assessed taxes which shall previously to the *sixth day of April* then next preceding have become payable from him in respect of all such premises so occupied by him in succession.

Provision as to joint occupiers.

XXIX. Where any premises as aforesaid, in any such city or borough, or in any place sharing in the election therewith, shall be jointly occupied by more persons than one as owners or tenants, each of such joint occupiers shall, subject to the conditions herein-before contained as to persons occupying premises in any such city, borough, or place, be entitled to vote in the election for such city or borough, in respect of the premises so jointly occupied, in case the clear yearly value of such premises shall be of an amount which, when divided by the number of such occupiers, shall give a sum of not less than ten pounds for each and every such occupier, but not otherwise.

Occupiers may demand to be rated,

XXX. In every city or borough which shall return a member or members to serve in any future Parliament, and in every place sharing in the election for such city or borough, it shall be lawful for any person occupying any house, warehouse, counting-house, shop, or other building, either separately, or jointly with any land occupied therewith by him as owner, or occupied therewith by him as tenant under the

---

Sect. 28. Note.

The "15th day of July" is substituted for the "last day of July" by 41 & 42 Vict. c. 26, s. 7; 48 & 49 Vict. c. 15, s. 12; and the "5th day of January" for the "6th day of April" by 11 & 12 Vict. c. 90.

Sect. 30. Note.

This section is applied to all occupiers of premises capable of conferring the franchise for a county under the Representation of the People Act, 1867 (31 & 32 Vict. c. 59), s. 30. A proviso to the section as to the liability of the landlord for rates is superseded by 30 & 31 Vict. c. 102, s. 7, and repealed by the S. L. R. Act, 1874.

Sect. 30.

same landlord, in any parish or town-ship in which there shall be a rate for the relief of the poor, to claim to be rated to the relief of the poor in respect of such premises, whether the landlord shall or shall not be liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming and actually paying or tendering the full amount of the rate or rates, if any, then due in respect of such premises, the overseers of the parish or township in which such premises are situate are hereby required to put the name of such occupier upon the rate for the time being; and in case such overseers shall neglect or refuse so to do, such occupier shall nevertheless for the purposes of this Act be deemed to have been rated to the relief of the poor in respect of such premises from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated as aforesaid: . . .

and shall be put upon the rate, and be deemed to be rated from the time of the making of the rate.

Sect. 30.

Note.

Under a local Act requiring rates to be made "quarterly or oftener," a rate purported to be made "for thirteen weeks from the 16th September to the 16th December;" and a new rate purporting to be made "for thirteen weeks from the 16th December to the 17th March" was made on the 23rd December and published on the 5th January. The claim to be rated was made on the 25th December. *Held* that the first-mentioned rate continued enforceable until a new rate was validly made, and was therefore the rate "for the time being," at the time of the claim (*Bushell* v. *Luckett*, 2 C. B. 111).

Service of the claim upon an assistant overseer qualified to act as such is good service upon the overseers (*Caunter* v. *Addams*, 15 C. B. (N. S.) 512; 33 L. J. C. P. 68; 9 L. T. (N. S.) 391; 9 Jur. (N. S.) 1295).

It was held under this section that the claim was operative only for the current rate; so that if the name of the claimant was omitted from a subsequent rate he was obliged to make a fresh claim in order to obtain the benefit of the section (*Wansey* v. *Perkins*; *Lockey's Case*, 7 Man. & G. 145; 8 Scott, N. R. 970). But this is now altered by the Compound Householders Act, 1851 (14 & 15 Vict. c. 14), s. 1).

A poor rate for a parish in a borough was dated at its head April, 1867, but it was not in fact signed by the parish officers till August, 1867, in which month it was also duly allowed by two justices and published. A. occupied a dwelling-house in the parish for the twelve months preceding July 31st, 1868, but his name was not included in the rate when it was signed, allowed, and published. A.'s landlord had for some years paid the rates of A. and of his other tenants in full, they paying a higher rent in consequence. After the publication of the rate, and without any communication with A., his landlord requested the overseer to put the names of his tenants on the rate, and the overseer accordingly inserted A.'s name amongst those of the other tenants on the rate. The landlord subsequently gave a cheque for the amount of all his tenants' rates. A.'s name, having been inserted in the list of voters, was objected to, and he appeared before the revising barrister to support his vote. *Held* that the rate was "made" during the twelve months preceding July 31st, 1868, within the meaning of 30 & 31 Vict. c. 102, s. 3; and was therefore

Sect. 31.

Provision as to possession and residence of freeholders voting for cities and towns being counties of themselves.

XXXI. In every city or town being a county of itself, in the election for which freeholders or burgage tenants, either with or without any superadded qualification, now have a right to vote, every such freeholder or burgage tenant shall be entitled to vote in the election of a member or members to serve in all future Parliaments for such city or town, provided he shall be duly registered *according to the provisions herein-after contained*, but that no such person shall be so registered in any year in respect of any freehold or burgage tenement unless he shall have been in the actual possession thereof, or in the receipt of the rents and profits thereof, for his own use, for twelve calendar months next previous to the *last day of July* in such year (except where the same shall have come to him, at any time within such twelve months, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or to any office), nor

---

Sect. 30.

Note.

a rate to which A. ought to have been rated. *Held*, also, that his landlord had not any implied authority from A. to make a claim to have his name inserted on the rate; that, if there could be a ratification, A.'s conduct in appearing before the revising barrister was too late to be a ratification; and that therefore A. had not claimed to be rated within 2 & 3 Will. 4, c. 45, s. 30; and was not entitled to have his name retained on the list of voters (*Ainsworth* v. *Creeke*, L. R. 4 C. P. 476; 38 L. J. C. P. 58; 19 L. T. (N.S.) 824; 34 J. P. 279).

A rate assessed and signed by the overseers before the commencement of the qualifying period, but allowed and published within the qualifying period, was held not to be a rate "made" during the qualifying period (*Jones* v. *Bubb*, L. R. 4 C. P. 468; 38 L. J. C. P. 57; 19 L. T. (N.S.) 483; 17 W. R. 205; 33 J. P. 102).

A. had occupied a dwelling-house in a borough for the requisite twelve months, but had not been rated; he had before the 20th of July, 1868, paid all poor rates which had become payable for the house previously to the 5th of January. A rate was made on the 15th of January, 1868, in which A. was not rated; and on the 24th of August he claimed to be rated "to all rates made since the 31st of July, 1867." *Held* that, inasmuch as the qualification under sect. 3 of the Representation of the People Act, 1867, must be complete by the 31st of July of the qualifying year, the claim was too late (*Agnew* v. *Reilly*, 2 Ir. C. L. Rep. 560, and *Muldowney* v. *Malcomson*, 15 Ir. C. L. Rep. 375, discussed; *Medwin* v. *Streeter*, L. R. 4 C. P. 488; 38 L. J. C. P. 180; 19 L. T. (N.S.) 827; 17 W. R. 380; 33 J. P. 295).

By the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 17, which enactment was passed to settle the questions raised in the above cited cases, a poor rate is deemed to be *made* on the day that it is allowed by the justices.

Sect. 31.

Note.

The words "according to the provisions herein-after contained" are repealed by 6 & 7 Vict. c. 18, and replaced by other provisions of that Act and the Acts amending the same.

The "15th day of July" is substituted for the "last day of July" by 41 & 42 Vict. c. 26, s. 7; 48 & 49 Vict. c. 15, s. 12.

unless he shall have resided for six calendar months next previous to the *last day of July* in such year within such city or town, or within seven statute miles thereof or of any part thereof: Provided always, that nothing in this enactment contained shall be deemed to vary or abridge the provisions herein-before made relative to the right of voting for any city or town being a county of itself, in respect of any freehold for life or lives: Provided also, that every freehold or burgage tenement which may be situate without the present limits of any such city or town being a county of itself, but within the limits of such city or town, as the same shall be settled and described by the Act to be passed for that purpose as herein-before mentioned, shall confer the right of voting in the election of a member or members to serve in any future Parliament for such city or town in the same manner as if such freehold or burgage tenement were situate within the present limits thereof.

Sect. 31.

Freeholds within the new boundaries to confer the right of voting.

XXXII. Every person who would have been entitled to vote in the election of a member or members to serve in any future Parliament for any city or borough, either as a burgess or freeman, or in the city of London as a freeman and liveryman, if this Act had not been passed, shall be entitled to vote in such election, provided such person shall be duly registered *according to the provisions herein-after contained*, but that no such person shall be so registered in any year, unless he shall, on the *last day of July* in such year, be qualified in such manner as would entitle him then to vote if such day were the day of election, and this Act had not been passed, nor unless, where he shall be a burgess or freeman or freeman and liveryman of any city or borough, he shall have resided for six calendar months next previous to the *last day of July* in such year within such city or borough, or within seven statute miles from the place where the poll for such city or borough shall heretofore have been taken, nor unless, where he shall be a burgess or freeman of any place sharing in the election for any city or borough, he shall have resided for six calendar months next previous to the *last day of July* in such year within such respective place so sharing as aforesaid or within seven statute miles of the place mentioned in conjunction with such respective place so sharing as aforesaid and named in the second column of the schedule marked (E. 2.) to this Act annexed: Provided always, that no person who shall have been elected, made, or admitted a

Burgesses and freemen not to vote in boroughs, unless resident, &c.

Exclusion of burgesses and freemen

So much of this section as relates to the residence of electors within seven miles of any city or borough is repealed in respect to electors qualified to be registered and to vote for members to serve in Parliament for the city of London, by 30 & 31 Vict. c. 102, s. 46; the seven miles being extended to twenty-five miles from London by that section. As to the words in italics see note to sect. 31, *supra*.

Sect. 32.

Note.

Sect. 32.

created since the 1st of March, 1831, except in respect of birth or servitude.

burgess or freeman since the first day of March one thousand eight hundred and thirty-one, otherwise than in respect of birth or servitude, or who shall hereafter be elected, made, or admitted a burgess or freeman, otherwise than in respect of birth or servitude, shall be entitled to vote as such in any such election for any city or borough as aforesaid, or to be so registered as aforesaid: Provided also, that no person shall be so entitled as a burgess or freeman in respect of birth unless his right be originally derived from or through some person who was a burgess or freeman, or entitled to be admitted a burgess or freeman previously to the first day of March in the year one thousand eight hundred and thirty-one, or from or through some person who since that time shall have become or shall hereafter become a burgess or freeman in respect of servitude:

Proviso as to burgesses and freemen by birth.

Proviso as to burgesses and freemen of Swansea, Loughor, Neath, Aberavon, and Ken-fig.

Provided also, that every person who would have been entitled, if this Act had not been passed, to vote as a burgess or freeman of Swansea, Loughor, Neath, Aberavon, or Ken-fig, in the election of a member to serve in any future Parliament for the borough of Cardiff, shall cease to vote in such election, and shall instead thereof be entitled to vote as such burgess or freeman in the election of a member to serve in all future Parliaments for the borough composed of the towns of Swansea, Loughor, Neath, Aberavon, and Ken-fig, subject always to the provisions hereinbefore contained with regard to a burgess or freeman of any place sharing in the election for any city or borough.

[Sect. 33: Repealed by the S. L. R. Act, 1890. Sect. 34: Repealed by the S. L. R. Act, 1888.]

Exclusion of certain rights of voting in boroughs acquired since the 1st of March, 1831.

XXXV. Provided nevertheless, that notwithstanding anything herein-before contained no person shall be entitled to vote in the election of a member or members to serve in any future Parliament for any city or borough (other than a city or town being a county of itself, in the election for which freeholders or burgage tenants have a right to vote as herein-before mentioned), in respect of any estate or interest in any burgage tenement or freehold which shall have been acquired by such person since the first day of March one thousand eight hundred and thirty-one, unless the same shall have come to or been acquired by such person, since that day, and previously to the passing of this Act, by descent, succession, marriage, marriage settlement, devise, or promotion to any benefice in a church, or by promotion to any office.

Disqualification by receipt of parochial relief.

XXXVI. No person shall be entitled to be registered in any year as a voter in the election of a member or members

Sect. 36.

Note.

This section is extended to counties by 30 & 31 Vict. c. 102, s. 40. The "15th day of July" is substituted for "the last day of July" by 41 & 42 Vict. c. 26, s. 7; 47 & 48 Vict. c. 15, s. 12.

By the Vaccination Act, 1867 (30 & 31 Vict. c. 84), s. 26,

Sect. 36.

to serve in any future Parliament for any city or borough who shall within twelve calendar months next previous to the *last day of July* in such year have received parochial relief or other alms which by the law of Parliament now disqualify from voting in the election of members to serve in Parliament.

Sect. 36.

Note.

vaccination by a public vaccinator is not to be deemed to be parochial relief, alms, or charitable allowance.

By the Medical Relief Disqualification Removal Act, 1885 (48 & 49 Vict. c. 46), s. 1, medical or surgical assistance, or medicine at the expense of any poor rate, is not to deprive any person of his right to any franchise.

By the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 80 (4), the admission of any person suffering from an infectious disease into a hospital provided by the Metropolitan Asylums Board, or the maintenance of any such person therein, is not to be deemed parochial relief, alms, or charitable allowance.

By the Isolation Hospitals Act, 1893 (56 & 57 Vict. c. 68), s. 23, a person is not, by reason of his admission into and maintenance in a hospital provided under that Act, to suffer any loss of franchise.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 56, relief given to or on account of a wife, or to or on account of any child or children under the age of sixteen, not being blind or deaf and dumb, is considered as given to the husband of such wife or father of such child or children. But relief given to a father is not relief to a son of such father (*Reg.* v. *Ireland*, L. R. 3 Q. B. 130; 37 L. J. Q. B. 73; 17 L. T. (N. S.) 466; 16 W. R. 358).

Employment by the parish or union in labour at a rate of wages inferior to the wages that would usually be paid by individuals, is a receipt of parochial relief (*Kemp's Case*, 1 Perry & Knapp, 128; *Taylor's Case*, 1 Pow. Rod. & Dew, 156; *Magarrill* v. *Overseers of Whitehaven*, 16 Q. B. D. 242; 55 L. J. Q. B. 38; 53 L. T. 667; 34 W. R. 275; 49 J. P. 743).

In the following cases the relief received was held not to amount to parochial relief so as to disqualify the recipient from exercising the franchise: Excusal from payment of poor rates on the ground of poverty under the Poor Relief Act, 1814 (54 Geo. 3. c. 170), s. 11 (*Mashiter* v. *Dunn*, 6 C. B. 30; 18 L. J. C. P. 13); but such excusal was held to be a valid objection to a claim by an inhabitant occupier to be registered under 30 & 31 Vict. c. 102, s. 3, subs. (4) (*Abel* v. *Lee*, L. R. 6 C. P. 365; 40 L. J. C. P. 154; 34 J. P. 343). Relief to children or grandchildren whom the voter was not bound by law to support (*Harrison's Case*, 1 Pow. Rod. & Dew. 164; *Kirk's Case*, 1 O'M. & H. 160; *Reg.* v. *Ireland*, L. R. 3 Q. B. 130, *supra*). Payment from the rates of an uncertificated midwife for attendance on the voter's wife after the guardians had authorized the relieving officer to give an order for the attendance of a medical man (*Honeybone* v. *Hambridge*, 18 Q. B. D. 418; 56 L. J. Q. B. 46; 56 L. T. 365; 35 W. R. 520; 51 J. P. 103).

The following cases have been decided on the question of disqualification by receipt of "other alms":—

Two corporate hospitals in Sandwich possessed lands and houses; the income from the lands was divisible among the brethren in equal

Sect. 37.

[Sects. 37—57. *Relating to the formation of registers and appointment and payment of revising barristers:* Repealed by 6 & 7 Vict. c. 18, s. 1.]

[Sects. 58—60, 62, 63. *As to division of counties into polling districts and appointment of polling places:* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32. Sect. 61. Repealed by the S. L. R. Act, 1890.]

Sect. 64. Erection of booths at the polling places for counties.

[Sect. 65. *Provision as to sheriffs' deputies, the custody of poll books and final declaration of poll in counties:* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

Sect. 36.

Note.

proportions, and a house was assigned to each of the brethren. The brethren were appointed by trustees nominated by the Lord Chancellor, and the qualification for appointment was that they should be inhabitants or children of inhabitants of the town, above the age of fifty-six, and having no competent means to live. The appointment was for life. *Held* that they were not disqualified (*Smith* v. *Hall*, 15 C. B. (N. S.) 485; 33 L. J. C. P. 59; 9 L. T. (N. S.) 413; 9 Jur. (N. S.) 1340; 12 W. R. 172; 28 J. P. 167).

Lands were held by trustees upon trust to apply the income in placing abroad certain poor children, the surplus to be distributed unto "the poorest inhabitants of the said tything" as the trustees should think fit. Two agricultural labourers with large families who had each received 12*s.* 6*d.* within the year from this surplus, were held to be thereby disqualified (*Harrison* v. *Carter*, 2 C. P. D. 26; 46 L. J. C. P. 27; 35 L. T. 511; 25 W. R. 182).

A charity, under a scheme approved by the Charity Commissioners, provided lodgings in almshouses, and a weekly sum not exceeding 12*s.* to single poor persons of good character, who had resided in Monmouth for two years without having received parochial relief, and who from ill-health, accident, or misfortune were unable to maintain themselves. *Held* that the recipients of the charity were disqualified (*Baker* v. *Monmouth, Town Clerk of*, 53 L. T. 668; 34 W. R. 64; 49 J. P. 776). The same was held in a precisely similar case occurring in Denbigh (*Edwards* v. *Lloyd*, 20 Q. B. D. 302; 57 L. J. Q. B. 121; 58 L. T. 409).

Under the regulations of St. Bartholomew's Hospital, Gloucester, the participation of the almsmen in the benefits of the charity was made dependent on the goodwill of the trustees, and the almsmen were consequently held to be disqualified (*Dix* v. *Kent*, 63 L. T. 641; 39 W. R. 173; 55 J. P. 213).

A hospital in Hull was founded in 1384 for feeble or old men and women "so long as they are necessitous." The property from which the revenues were derived was granted to the master, brethren, and sisters, and their successors for ever. By subsequent schemes the brethren and sisters were elected by the corporation of Hull, and were removable at their pleasure. The power of removal, however, had never been exercised. *Held* that the brethren were not disqualified on the ground that they were legally entitled to participate in the funds until removed for some good cause, and being legally entitled were not in receipt of "alms" within the meaning of the word as used in this section (*Cowen* v. *Kingston-on-Hull, Town Clerk of*, [1897] 1 Q. B. 273).

Sect. 66. Sheriff in county elections may act in places of exclusive jurisdiction.

Sect. 66.

[Sect. 67. *Commencement and continuance of polls at borough elections in England:* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

Sect. 68. Polling booths for different parishes, &c., at borough elections in England.

[Sect. 69. *Polling districts for certain localities:* Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

Sect. 70. When returning officers may close the poll before the expiration of the time fixed.

Sect. 71. Polling booths to be erected at the joint expense of candidates.

[Sects. 72—74. Repealed by the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 32.]

All election laws to remain in force except where superseded by this Act.

LXXV. All laws, statutes, and usages now in force respecting the election of members to serve in Parliament for that part of the United Kingdom called England and Wales shall be and remain, and are hereby declared to be and remain, in full force, and shall apply to the election of members to serve in Parliament for all the counties, ridings, parts, and divisions of counties, cities, and boroughs, hereby empowered to return members, as fully and effectually as if the same respectively had heretofore returned members, except so far as any of the said laws, statutes, or usages are repealed or altered by this Act, or are inconsistent with the provisions thereof.

Penalties on officers for breach of duty.

LXXVI. If any sheriff, returning officer, barrister, overseer, or any person whatsoever shall wilfully contravene or disobey the provisions of this Act or any of them, with respect to any matter or thing which such sheriff, returning officer, barrister, overseer, or other person is hereby required to do, he shall for such his offence be liable to be sued in an action of debt in any of His Majesty's Courts of Record at Westminster for the penal sum of five hundred pounds, and the jury before whom such action shall be tried may find their verdict for the full sum of five hundred pounds, or for any less

---

See also, as to offences by overseers, the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 51.

Sect. 76. Note.

In an action against an overseer for a penalty under this section, for wilfully inserting in the list of voters the names of persons not entitled to be inserted, it is not essential that he should have acted from any corrupt motive; it is sufficient if he has acted wilfully (*Tarr* v. *M'Gahey*, (1836) 7 C. & P. 380).

Sect. 76.

sum which the said jury shall think it just that he should pay for such his offence; and the defendant in such action, being convicted, shall pay such penal sum so awarded, with full costs of suit, to the party who may sue for the same: provided always, that no such action shall be brought except by a person being an elector, or claiming to be an elector, or a candidate, or a member actually returned, or other party aggrieved: provided also, that the remedy hereby given against the returning officer shall not be construed to supersede any remedy or action against him according to the law now in force.

Writs, &c., to be made conformable to this Act.

LXXVII. All writs to be issued for the election of members to serve in all future Parliaments, and all mandates, precepts, instruments, proceedings, and notices consequent upon such writs, shall be and the same are hereby authorized to be framed and expressed in such manner and form as may be necessary for the carrying the provisions of this Act into effect.

[Sect. 78. *Act not to extend to Universities of Oxford and Cambridge:* Repealed by 48 & 49 Vict. c. 15, s. 15.]

Definitions: "City or borough:"

LXXIX. Throughout this Act, wherever the words "city or borough," "cities or boroughs," may occur those words shall be construed to include, except there be something in the subject or context manifestly repugnant to such construction, all towns corporate, cinque ports, districts, or places within England and Wales which shall be entitled after this Act shall have passed to return a member or members to serve in Parliament, other than counties at large, and ridings, parts, and divisions of counties at large, and shall also include the town of Berwick-upon-Tweed; and the words

"Returning officer."

"returning officer" shall apply to every person or persons to whom, by virtue of his or their office, either under the present Act, or under any former law, custom, or statute, the execution of any writ or precept doth or shall belong for the election of a member or members to serve in Parliament, by whatever name or title such person or persons may be called; and the words

"Parish or township:"

"parish or township" shall extend to every parish, township, vill, hamlet, district, or place maintaining its own poor; and the words

"Overseers of the poor:"

"overseers of the poor" shall extend to all persons who by virtue of any office or appointment shall execute the duties of overseers of the poor, by whatever name or title such persons may be called, and in whatsoever manner they may be appointed,

Majority of overseers may act.

and that all matters by this Act directed to be done by the overseers of a parish or township may be lawfully done by the major part of such overseers, and that wherever any notice is

Notices to overseers.

by this Act required to be given to the overseers of any parish or township, it shall be sufficient if such notice shall be delivered

Sect. 79.

Note. For modifications of definitions in this section see the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 101.

Sect. 79.

to any one of such overseers, or shall be left at his place of abode, or at his office or other place for transacting parochial business, or shall be sent by the post, addressed by a sufficient direction, to the overseers of the particular parish or township, or to any one of them, either by their or his Christian name and surname, or by their or his name of office; and that all provisions in this Act relative to any matters to be done by or with regard to justices of the peace for counties, or sessions of the peace for counties, or clerks of the peace for counties, or treasurers of counties, shall extend to the justices, sessions, clerks of the peace, and treasurers of the several ridings of Yorkshire and parts of Lincolnshire, and that the clerk of the peace for the time being for the borough of Newport in the Isle of Wight shall for the purposes of this Act be deemed and taken to be the clerk of the peace for the county of the Isle of Wight, and that all the said respective justices, sessions, and clerks of the peace shall have power to do the several matters required by this Act, as well within places of exclusive jurisdiction as without; and that no misnomer or inaccurate description of any person or place named or described in any schedule to this Act annexed, or in any list or register of voters, or in any notice required by this Act, shall in anywise prevent or abridge the operation of this Act with respect to such person or place, provided that such person or place shall be so designated in such schedule, list, register, or notice as to be commonly understood.

Powers of justices of the peace, &c., in certain cases.

Misnomer not to interfere with operation of Act.

[Sects. 80—82: Repealed by the S. L. R. Act, 1874.]

SCHEDULES.

[Sched. (A.) and part of Sched. (C.): Repealed by the S. L. R. Act, 1890. Scheds. (F.) (F. 2) and (G.): Repealed by the S. L. R. Act, 1888. Scheds. (H.), (I.), (K.) (*containing the forms of lists and notices referred to in the Act*): Repealed by 6 & 7 Vict. c. 18, s. 1. Sched. (L.): Repealed by the S. L. R. Act, 1874.]

SCHEDULE (B.).

Boroughs.	County.
Hythe	Kent.
Christchurch . .	Hampshire.
Great Grimsby . .	Lincolnshire.
Morpeth . . .	Northumberland.

SCHEDULE (C.).

Principal Places to be Boroughs.

Greenwich (Kent).
Tower Hamlets (Middlesex).
Finsbury (Middlesex).
Mary-le-bone (Middlesex).
Lambeth (Surrey).
Stroud (Gloucestershire).

Schedule.

SCHEDULE (D.).

Principal Places to be Boroughs.

Chatham (Kent).
Whitehaven (Cumberland).
Merthyr Tydvil, Glamorganshire.

SCHEDULE (E.).

Places sharing in the Election of Members.		Shire-Towns or Principal Boroughs.	County in which such Boroughs are situated.
Llanelly	sharing with	Caermarthen	Caermarthenshire
Pwllheli, Nevin, Conway, Bangor, Criccieth	sharing with	Caernarvon	Caernarvonshire.
Ruthin, Holt, Town of Wrexham	sharing with	Denbigh	Denbighshire.
Rhyddlan, Overton, Caerwis, Caergwrley, St. Asaph, Holywell, Mold	sharing with	Flint	Flintshire.
Cowbridge, Llantrissent	sharing with	Cardiff	Glamorganshire.
Llanidloes, Welsh Pool, Machynlleth, Llanfyllin, Newtown	sharing with	Montgomery	Montgomeryshire.
Narberth, Fishguard	sharing with	Haverfordwest.	Pembrokeshire.
Tenby, Wiston, Town of Milford	sharing with	Pembroke	Pembrokeshire.

SCHEDULE (E. 2). Schedule.

Places sharing in the Election of Members.	Places therein from which the Seven Miles are to be calculated.
Newport	The Market Place.
Usk	The Town Hall.
Pwllheli	The Guildhall.
Nevin	The Parish Church.
Conway	The Parish Church.
Criccieth	The Castle.
Ruthin	The Parish Church called St. Peter's.
Holt	The Parish Church.
Rhyddlan	The Parish Church.
Overton	The Parish Church.
Caerwis	The Parish Church.
Caergwrley	The Parish Church of Hope.
Cowbridge	The Town Hall.
Llantrissent	The Town Hall.
Tenby	The Parish Church.
Wiston	The Parish Church.
Swansea	The Town Hall.
Loughor	The Parish Church.
Neath	The Town Hall.
Aberavon	The Bridge over the Avon.
Ken-fig	The Parish Church of Lower Ken-fig.

POOR RATE EXEMPTION ACT, 1833.

3 & 4 WILL. IV., CHAP. 30.

An Act to exempt from Poor and Church Rates all Churches, Chapels, and other Places of Religious Worship.

[24th July, 1833.]

[*Preamble.*]

No persons shall be rated to church or poor rates for churches or places exclusively appropriated to public religious

[I.] No person or persons shall be rated or shall be liable to be rated or to pay to any church or poor rates or cesses, for or in respect of any churches, district churches, chapels, meeting houses, or premises, or such part thereof as shall be exclusively appropriated to public religious worship, and which (other than churches, district churches, and episcopal chapels of the Established Church) shall be duly certified for the performance of such religious worship according to the provisions of any Act

Sect. 1.

worship, and duly certified.

or Acts now in force: Provided always, that no person or persons shall be hereby exempted from any such rates or cesses for or in respect of any parts of such churches, district churches, chapels, meeting houses, or other premises which are not so exclusively appropriated, and from which parts not so exclusively appropriated such person or persons shall receive any rent or rents, or shall derive profit or advantage.

Persons not to be liable to rates because premises are used for Sunday schools, &c.

II. Provided always, that no person or persons shall be liable to any such rates or cesses because the said churches, district churches, chapels, meeting houses, or other premises, or any vestry rooms belonging thereto, or any part thereof, may be used for Sunday or infant schools, or for the charitable education of the poor.

APPRENTICES ACT, 1833.

3 & 4 WILL. IV., CHAP. 63.

An Act to render valid Indentures of Apprenticeship allowed only by Two Justices acting for the County in which the Parish from which such Apprentices shall be bound, and for the County in which the Parish into which such Apprentices shall be bound, shall be situated; and also for remedying defective Executions of Indentures by Corporations.

[28th August, 1833.]

[*Preamble recited* 56 *Geo.* 3, *c.* 139, *s.* 2.]

Where indentures are to be allowed by justices acting for two different counties they

[I.] All indentures for the binding of parish apprentices which shall hereafter be allowed by two justices of the peace acting as well for the county or district within which the place by the officers of which such child shall be bound shall be situated, as for the county or district within which the place shall be situated wherein such child shall be intended to serve,

---

Sect. 2.

Note.

Before this statute chapels, &c., were rateable, where profit was made from the letting of pews, &c. (*Robson* v. *Hyde*, Cald. 310; *Rex* v. *Agar*, 14 East, 256), but not otherwise (*Rex* v. *Southwark*, 2 Str. 745; *Rex* v. *Woodward*, 5 T. R. 79).

Salvation Army barracks, in which newspapers and food are sold, public meetings held, and money charged for seats, are not premises "exclusively appropriated to public religious worship" within the above section, and are therefore rateable (*Booth* v. *St. Martin's, Worcester*, 48 J. P. 441).

---

3 & 4 Will. 4, c. 63.

Sect. 1.

Note

The provisions of this section are rendered nugatory by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 12, which makes the allowance or assent of justices to the indentures of pauper apprentices unnecessary.

Sect. 1.

shall be valid if allowed by justices acting for both counties together.

shall be deemed and taken to be as good, valid, and effectual, to all intents and purposes, as if the same had been allowed by two justices of the peace acting only for the county or district in which the place from which such child shall be bound is situated, and also by two other justices of the peace acting only for the county or district within which the place shall be situated in which such child shall be intended to serve.

Indentures made under seal of corporations of guardians to be valid.

II. [*Recital, that doubts had arisen as to the validity of indentures executed under the seal of corporations only.*] In all cases where any indentures for the binding out poor children apprentices shall be hereafter executed by any directors, guardians, acting guardians, or other officers of any hundreds, parishes, or other districts now incorporated or hereafter to be incorporated under and by virtue of any Act of Parliament, by affixing thereto the seal of the corporation of which they are or shall be directors, guardians, acting guardians, or other officers respectively, such execution of the said indentures respectively shall be deemed and taken to be a good, valid, and effectual execution of the said indentures respectively by the said directors, guardians, acting guardians, or other officers of such incorporated hundreds, parishes, or other districts respectively.

Indentures in cities, &c., shall be allowed by two justices, one acting for the county and the other for the city, &c.

III. [*Recital, that county justices should have concurrent jurisdiction with borough justices in apprenticing children in boroughs, &c.*] Every indenture for the binding of parish apprentices within any city, borough, or town corporate shall be allowed by two justices of the peace, one of such justices acting for and on behalf of the county, and the other of such justices acting for and on behalf of the city, borough, or town corporate, within the limits of which such child shall be bound.

[Sect. 4. *Spent:* Repealed by the S. L. R. Act, 1892.]

Sect. 2.

Note.

By a local Act the guardians, or any five of them, were to bind out pauper apprentices. In pursuance of the Act an indenture of apprenticeship was entered into between the guardians of the one part and the apprentice's mistress, and the corporate seal was affixed to the indenture. It was objected that the Act did not enable the guardians to bind the apprentice in their corporate capacity, but only in their individual capacity; but it was held that the indenture was valid by virtue of this section (*Reg.* v. *Isle of Wight Guardians*, 10 L. T. (N. S.) 370).

Sect. 3.

Note.

See note to sect. 1, *supra*.

POOR LAW AMENDMENT ACT, 1834.

4 & 5 WILL. IV., CHAP. 76.

An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales.*

[14th August, 1834.]

[Preamble recited that it was expedient to amend the laws relating to the relief of the poor.]

[Sects. 1—13 are repealed by the S. L. R. Act, 1874, the powers, &c., of the commissioners being transferred by 10 & 11 Vict. c. 109, s. 10, to the Poor Law Board, whose powers were in turn transferred to the Local Government Board by 34 & 35 Vict. c. 70.]

[Sect. 1. *Appointment and removal of commissioners.*]

[Sect. 2. *Style of commissioners, who may sit as a board with power to summon and examine witnesses and call for the production of papers on oath, or to substitute a declaration for an oath, but not to inquire into any title.*]

[Sect. 3. *To have a common seal; rules, &c., purporting to be sealed with such seal to be received as evidence.*]

[Sect. 4. *Commissioners to record their proceedings.*]

[Sect. 5. *Commissioners to make a general report to the Secretary of State yearly.*]

[Sect. 6. *And to report to the Secretary of State when required.*]

[Sect. 7. *Power to appoint assistant commissioners and to remove the same; not more than nine to be appointed without consent of Treasury.*]

[Sect. 8. *Commissioners not to sit in Parliament.*]

[Sect. 9. *Commissioners to appoint secretary, assistant secretary or secretaries, clerks, and other officers.*]

[Sect. 10. *Appointment of commissioners, &c., limited to five years.*]

[Sect. 11. *Commissioners and assistant commissioners to take oath; form of oath; notification of appointment of commissioners to be sent to clerks of the peace and published.*]

* Throughout this Act for "Poor Law Commissioners" now read "Local Government Board" (34 & 35 Vict. c. 70).

[Sect. 12. *Commissioners may delegate powers to assistant commissioners, and revoke them; assistant commissioners may summon persons and examine them upon oath, or a declaration may be substituted for an oath.*] Sect. 12.

[Sect. 13. *Persons giving false evidence guilty of perjury; refusing to attend, &c., guilty of misdemeanour:* Replaced by 10 & 11 Vict. c. 109, s. 26.]

XIV. It shall be lawful for the said commissioners, in any case where they see fit, to order and allow such expenses of witnesses, and of or attending the production of any books, contracts, agreements, accounts, or writings, or copies thereof, to or before the said commissioners or assistant commissioners, as such commissioners may deem reasonable, to be paid as follows; that is to say, out of the poor rates of the respective parish or union which in the opinion of the said commissioners shall be interested or concerned in such attendance or production respectively in all cases in which such witnesses shall not go or travel more than ten miles from the respective parish or union which shall be interested or concerned as aforesaid, and in all other cases the expenses so ordered or allowed shall be deemed as part of the incidental expenses attending the execution of this Act, and be paid accordingly. Reasonable expenses of witnesses, &c., to be paid. Mode of payment.

XV. The administration of relief to the poor throughout England and Wales, according to the existing laws, or such laws as shall be in force at the time being, shall be subject to the direction and control of the said commissioners; and for Administration of relief to the poor to be under control of the

---

The provisions of this section are in effect superseded by the provisions of sect. 21 of the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109). Sect. 14. Note.

The words in this section relating to the management of parish poor children under 7 Geo. 3, c. 39 (now repealed) are repealed by the S. L. R. Act, 1874. Sect. 15. Note.

So much of this Act as relates to the making of general rules by the Poor Law Commissioners, or to the time when or how any such general rule shall operate or take effect, or to the disallowance of any such general rule or any part thereof, was repealed by the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 16, and such provisions were replaced by other provisions in that Act.

As to evidence of the making of rules by the Poor Law Commissioners, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 71, and the Documentary Evidence Acts, 1868 and 1882 (34 & 35 Vict. c. 70, s. 5; 45 & 46 Vict. c. 9, s. 2).

A rule or order inconsistent with a former rule or order has the effect of altering the former rule or order, and will be valid in itself (*Reg.* v. *Braintree Union*, 1 Q. B. 130; 4 P. & D. 593; 10 L. J. M. C. 76; 3 Jur. 265; *Reg.* v. *Robinson*, 17 Q. B. 466).

Sect. 15.

commissioners, who are to make rules for the management of the poor, &c.

executing the powers given to them by this Act the said commissioners shall and are hereby authorized and required, from time to time as they shall see occasion, to make and issue all such rules, orders, and regulations for the management of the poor, for the government of workhouses and the education of the children therein, . . . and for the apprenticing the children of poor persons, and for the guidance and control of all guardians, vestries, and parish officers, so far as relates to the management or relief of the poor, and the keeping, examining, auditing, and allowing of accounts, and making and entering into contracts in all matters relating to such management or relief, or to any expenditure for the relief of the poor, and for carrying this Act into execution in all other respects, as they shall think proper; and the said commissioners may, at their discretion, from time to time suspend, alter, or rescind such rules, orders, and regulations, or any of them: Provided always, that nothing in this Act contained shall be construed as enabling the said commissioners or any of them to interfere in any individual case for the purpose of ordering relief.

Commissioners may suspend or alter rules, &c.

[Sect. 16. *General rules to be submitted to Secretary of State forty days before coming into operation. If disallowed by King in Council during forty days not to come into operation, if disallowed afterwards:* Repealed by the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 16, and by the S. L. R. Act, 1874: Replaced by 10 & 11 Vict. c. 109, s. 17.]

[Sect. 17. *General rules to be laid before Parliament:* Repealed by the S. L. R. Act, 1874.]

Rules, orders, &c., before they come into operation in any parish,

XVIII. A written or printed copy of every rule, order or regulation of the said commissioners shall, before the same shall come into operation in any parish or union, be sent by the said commissioners, by the post, or in such manner as the

---

Sect. 18.

Note.

As to the repeal of so much of this Act as relates to the making of general rules, &c., by the commissioners, see note to sect. 15, *supra*.

The words omitted from this section, which required the orders, &c., to be sealed or stamped with a seal, were repealed by the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 14.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 72, provision is made for regulating and simplifying the evidence of the sending of the orders, &c., required by this section.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 2, the Local Government Board shall not be required to send copies of any orders issued by them to the clerks to the justices of petty sessional divisions, except such as relate to the relief of the poor, the government and management of workhouses and their inmates, and the guidance and regulation of guardians and their officers.

commissioners shall think fit, . . . addressed to the overseers of such parish, the guardians of such union or their clerk, and to the clerk to the justices of the petty sessions held for the division in which such parish or union shall be situate; and such overseers, guardians or their clerk, and clerks to the justices aforesaid, are hereby required to keep and preserve, notify and give publicity to, such rules, orders, and regulations, in such manner as the said commissioners shall direct, and also to allow every owner of property or his agent, or any ratepayer, in every such parish or union, to inspect the same at all reasonable times, free of any charge for such inspection, and to furnish copies of the same, being paid for such copies at and after the rate of threepence for every folio of seventy-two words, and to allow copies or extracts thereof to be taken, on being paid for so doing after the rate of three halfpence for every folio of seventy-two words; and in case any such overseer, guardian, clerk, or clerk to the justices, to whom such rules, orders, or regulations, or copies thereof, shall be sent as aforesaid, shall neglect to keep and preserve, notify and give publicity to the same in the mode prescribed or directed by the said commissioners, or shall refuse such inspection, or to furnish or allow such copies thereof to be taken as aforesaid, every person so offending shall for every such offence be subject and liable to a penalty not exceeding the sum of ten pounds nor less than forty shillings, to be recoverable in the same manner as any penalties are by this Act directed to be recovered: Provided also, that if any such rule shall, after the same shall have come into operation, be disallowed in manner herein-before mentioned, or revoked by the said commissioners, then and in every such case the said commissioners shall send, by the post, or in such manner as they shall think fit, to every parish or union affected by the said rule, notice of such disallowance or revocation; such notice of disallowance or revocation to be addressed, kept, preserved, notified, and publicly inspected, and copies thereof furnished or allowed to be taken, in such and the same manner and subject to the same penalties as are herein-before mentioned respecting the rules, orders, and regulations of the said commissioners.

Sect. 18.

&c., shall be sent to overseers, &c.

Publicity to be given to rules, &c., in manner directed by commissioners.

Penalty on overseer, &c., neglecting to give publicity &c.

Disallowance of rule to be notified in like manner.

XIX. No rules, orders, or regulations of the said commissioners, nor any bye laws at present in force or to be hereafter

No inmate of a workhouse obliged to

Penalties are recoverable under sects. 99, 101 of this Act.

The disallowance of rules by the King in Council was provided for by sect. 16 of this Act, which is now repealed and replaced by sect. 17 of the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109).

Sect. 18. Note.

As to the repeal of so much of this Act as relates to the making, &c., of general rules, &c., by the commissioners, see note to sect. 15, *supra*.

Sect. 19. Note.

Sect. 19.

attend any religious service contrary to his religious principles, &c.

made, shall oblige any inmate of any workhouse to attend any religious service which may be celebrated in a mode contrary to the religious principles of such inmate, nor shall authorize the education of any child in such workhouse in any religious creed other than that professed by the parents or surviving parent of such child, and to which such parents or parent shall object, or, in the case of an orphan, to which the godfather or godmother of such orphan shall so object: Provided also, that it shall and may be lawful for any licensed minister of the religious persuasion of any inmate of such workhouse, at all times in the day, on the request of such inmate, to visit such workhouse for the purpose of affording religious assistance to such inmate, and also for the purpose of instructing his child or children in the principles of their religion.

Visitation of inmates by ministers.

When rules of commissioners shall come into force.

XX. . . . no rule, order, or regulation of the said commissioners, except orders made in answer to the statements and reports herein-after authorized to be made by overseers or guardians to the said commissioners, shall be in force until the expiration of fourteen days after a written or printed copy of the same shall have been sent by the said commissioners, *sealed or stamped*, and addressed as lastly herein-before is mentioned.

Sect. 19.

Note.

The words "licensed minister" in this section are defined in sect. 74 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), as including and meaning "every person in holy orders and also every person teaching or preaching in any congregation for religious worship whose place of meeting is certified and recorded according to law."

Provision is made by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), ss. 16—23, for keeping a creed register in workhouses, pauper schools, and for attending to the religious wants of the inmates.

It is specially provided by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 1, which provides for the control of guardians over deserted children, that nothing therein contained shall affect the enactment in this section.

Sect 20.

Note.

The former part of this section relating to orders, &c., to be made by assistant commissioners is repealed by the S. L. R. Act, 1874.

As to the repeal of so much of this Act as relates to the making, &c., of general rules by the commissioners, see note to sect. 15, *supra*.

By the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 4, orders suspending paid officers may come into force at once.

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 12, orders may be acted upon, if the parties think fit, within the fourteen days after their being sent.

The copies of orders need not be *sealed or stamped* (see 45 & 46 Vict. c. 58, s. 14, in note to sect. 18, *supra*.)

Sect. 21.

Powers of 22 Geo. 3, c. 83, 59 Geo. 3, c. 12, and all other Acts relating to building workhouses, &c., relieving the poor, and borrowing money for those purposes, and powers of regulating workhouses, &c., to be exercised under control of commissioners, and subject to their orders.

XXI. Except where otherwise provided by this Act, all the powers and authorities given in and by a certain Act of Parliament passed in the twenty-second year of the reign of His late Majesty King George the Third, intituled "An Act for the better Relief and Employment of the Poor," and in and by a certain other Act passed in the fifty-ninth year of the reign of His said late Majesty, intituled "An Act to amend the Laws for the Relief of the Poor," and all Acts for amending such Acts respectively, and also all the powers and authorities given by every other Act of Parliament, general as well as local, for or relating to the building, altering, or enlarging of poorhouses and workhouses, and to the acquiring, purchasing, hiring, holding, selling, exchanging, and disposing thereof, or of land whereon the same may have been or may hereafter be erected, and of preparing such houses for the reception of poor persons, and the dieting, clothing, employing, and governing of such poor, and the raising or borrowing of money for any of the purposes aforesaid, and for repaying the same, and all powers of regulating and conducting all other workhouses whatsoever, and of governing, providing for, and employing the poor therein, and all powers auxiliary to any of the powers aforesaid, or in any way relating to the relief of the poor, shall in future be exercised by the persons authorized by law to exercise the same, under the control, and subject to the rules, orders, and regulations of the said commissioners; and the said commissioners and assistant commissioners respectively, and every of them, shall be entitled to attend at every parochial and other local board and vestry, and take part in the discussions, but not to vote at such board or vestry: Provided always, that nothing herein contained shall be construed to give the said commissioners or assistant commissioners any power to order the building, purchasing, hiring, altering, or enlarging of any workhouse, or the purchasing or

Commissioners, &c., to be entitled to attend local boards and vestries; but not to order the building or hiring of workhouses, &c., except

---

Sect. 21. Note.

This section is repealed by the S. L. R. Act, 1874, so far as it relates to 22 Geo. 3, c. 83, that Act being itself now repealed.

By the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 20, inspectors of the Poor Law Board, now the Local Government Board, have the right of attending every board of guardians and every parochial and other local meeting held for the relief of the poor.

The "powers expressly given by this Act" are contained in sects. 23, 25, *infra*.

By a local Act the guardians of a parish were authorized from time to time, as they found necessary, to enlarge or alter their workhouse. *Held* that the commissioners, under the general controlling powers conferred by this section, had authority to issue an order to the guardians to prohibit them from going on with projected alterations in their workhouse until the plans and estimates of the same should be submitted to the commissioners and approved by them (*Reg.* v. *Poor Law Commissioners, Re Brighton*, 3 Q. B. 325; 3 G. & D. 616; 6 Jur. 989; 6 J. P. 617).

Sect. 21.

under the powers given by this Act.

hiring of any land at the charge or for the use of any parish or union, save and except so far as such powers are expressly given by this Act.

XXII. And whereas by the said Act made and passed in the twenty-second year of the reign of His late Majesty King George the Third it is (among other things) enacted, that the rules, orders, and regulations specified and contained in the schedule thereunto annexed should be duly observed and enforced at every poorhouse or workhouse to be provided by virtue of the said Act, with such additions as should be made by the justices of the peace of the limit wherein such house or houses should be situate, at some special session, provided that such additions should not be contradictory to the rules, orders, and regulations established by that Act, and provided that the same should not be repealed by the justices at their quarter sessions of the peace; and it is expedient that such additions, or other rules, orders or regulations, under that or any local or other Act, should not in future be made without the sanction of the said commissioners: Be it therefore enacted, that no additions or alterations shall hereafter be made to or in the rules, orders, and regulations contained in the schedule to the said recited Act, and no rules, orders, and regulations shall hereafter be made under the authority of the said recited Act, or of any Act made for altering, amending, or extending the same, or any local or other Act relating to poorhouses, workhouses, or the relief of the poor, until the same shall have been submitted to and approved and confirmed by the said commissioners; and that the same, when so confirmed, shall be legally valid and binding upon all persons; and no justice or justices shall have power to repeal the same.

No additions or alterations to be made to the rules contained in the schedule to 22 Geo. 3, c. 83, and no rules to be made under that or any other Act, until confirmed by commissioners.

Commissioners, with consent of majority of guardians or

XXIII. It shall be lawful for the said commissioners, and they are hereby empowered, from time to time, when they may see fit, by any writing under their hands and seal, by and with the consent in writing of a majority of the guardians of

---

Sect. 22.

Note.

This section is repealed by the S. L. R. Act, 1874, so far as it relates to 22 Geo. 3, c. 83, that Act being itself now repealed.

Sect. 23.

Note.

The words in italics at the end of this section are in effect repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, and replaced by the provisions of that section as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

In a rural parish the consent of the parish meeting is substituted for that of the majority of ratepayers and owners in a parish by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 52 (1).

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103) s. 18, provision is made for the necessary consents where a parish is under a select vestry or a board of guardians appointed under a local Act. If a parish be under a board of guardians under this

Sect. 23.

ratepayers, &c., may order workhouses to be built, hired, altered, or enlarged.

any union, or with the consent of a majority of the ratepayers and owners of property entitled to vote in manner herein-after prescribed, in any parish, such last-mentioned majority to be ascertained in manner provided in and by this Act, to order and direct the overseers or guardians of any parish or union not having a workhouse or workhouses to build a workhouse or workhouses, and to purchase or hire land for the purpose of building the same thereon, or to purchase or hire a workhouse or workhouses, or any building or buildings for the purpose of being used as or converted into a workhouse or workhouses, and, with the like consent, to order and direct the overseers or guardians of any parish or union having a workhouse or workhouses, or any buildings capable of being converted into a workhouse or workhouses, to enlarge or alter the same in such manner as the said commissioners shall deem most proper for

---

Sect. 23.

Note.

Act, the consent of a majority of such guardians is sufficient (*Reg.* v. *Poor Law Commissioners, Re St. Mary Abbott's, Kensington*, 9 Q. B. 291; 16 L. J. M. C. 29).

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 13, guardians may, with the approval of the Local Government Board, hire or take on lease, temporarily or for a term of years not exceeding five, any land or buildings for the purpose of the relief or employment of the poor and the use of the guardians or their officers, without any order of the said board under seal.

The chief unrepealed statutes relative to the acquisition, sale and exchange of lands and buildings for the purposes of workhouses are: The Poor Relief Act, 1601 (43 Eliz. c. 2), s. 5 (wastes of manors); the Poor Relief Act, 1819 (59 Geo. 3, c. 12), ss. 12, 17 (parish lands); the Poor Relief Act, 1831 (1 & 2 Will. 4, c. 42), s. 1 (parish and waste lands); the Crown Land Allotments Act, 1831 (1 & 2 Will. 4, c. 59) (Crown forest or waste lands); the Union and Parish Property Acts, 1835 and 1837 (5 & 6 Will. 4, c. 69; 7 Will. 4 & 1 Vict. c. 50); the Parish Property and Debts Act, 1842 (5 & 6 Vict. c. 18), s. 3; the Workhouse Sites Act, 1857 (20 & 21 Vict. c. 13); and the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 10.

It is discretionary with the commissioners (now the Local Government Board) to exercise the power which this section confers on them or not as they may think fit; and the High Court will not interfere with the exercise of their discretion at the instance of a parish which may think itself aggrieved by an order of the Board (*Rex* v. *Poor Law Commissioners, Re Newport Union*, 6 A. & E. 54).

Eight cottages were erected by the parish of W. for the better lodging of the impotent and other poor, partly by means of benefaction and partly by a fund raised under an Inclosure Act, according to which such fund was to be applied to the relief of the poor, and accounted for as rates. The cottages were repaired out of the poor rates. Four of them were let, at a rent under their value, to industrious labourers, who paid no poor rates and occasionally received relief. *Held* that these four cottages were not workhouses within the meaning of this section or the definition of "workhouse" in sect. 109, so as to give the commissioners jurisdiction to make an order respecting them under this section (*Cantrell* v. *Windsor Union*, 7 Bing. N. C. 348).

Sect. 23.

carrying the provisions of this Act into execution, or to build, hire, or purchase any additional workhouse or workhouses, or any building or buildings for the purpose of being used as or converted into a workhouse or workhouses, or to purchase or hire any land for building such additional workhouse or workhouses thereon, of such size and description, and according to such plan, and in such manner, as the said commissioners shall deem most proper for carrying the provisions of this Act into execution; and the overseers and guardians to whom any such order shall be directed are hereby authorized and required to assess, raise, and levy such sum or sums of money as may be necessary for the purposes specified in such order, by such powers, ways, and means as are now by law given to or vested in churchwardens and overseers or guardians of the poor for purchasing or hiring land, or for building, hiring, and maintaining workhouses for the use of the poor, in their respective parishes or unions, *or to borrow money for such purposes under the provisions of this or any other Act or Acts.*

Expenses, how to be raised.

Sums to be raised may be charged on poor rates;

but shall not exceed average annual amount of poor rates;

and shall be repaid by instalments.

XXIV. For the better and more effectually securing the repayment of any sum or sums of money which may be borrowed for the purposes aforesaid, with interest, it shall be lawful for the said overseers or guardians to charge the future poor rates of such parish or union with the amount of such sum or sums of money: Provided always, that the principal sum or sums to be raised for such purposes, whether raised within the year or borrowed, shall in no case exceed the average annual amount of the rates raised for the relief of the poor in such parish or union for three years ending at the Easter next preceding the raising of such money; *and that any loan or money borrowed for any of the purposes aforesaid shall be repaid by annual instalments of not less than one-tenth of the sum borrowed, with interest on the same, in any one year.*

Commissioners may

XXV. It shall be lawful for the said commissioners, and they are hereby empowered, without requiring any such consent as

---

Sect. 24.

Note.

The proviso to this section was amended and extended by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 30, and the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 14. The words printed in italics are expressly repealed by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), and replaced by the provisions of that Act; and the rest of the proviso, so far as it relates to borrowing money, is repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, and replaced by the provisions of that section.

Sect. 25.

Note.

A proviso to this section limiting the amount to be raised or borrowed was repealed and replaced by the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 8, which again is, so far as relates to borrowing money, repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, and replaced by the provisions of that section.

aforesaid, by any writing under the hands and seal of the said commissioners, to order and direct the overseers or guardians of any parish or union having a workhouse or workhouses, or any building capable of being converted into a workhouse or workhouses, to enlarge or alter the same according to such plan and in such manner as the said commissioners shall deem most proper for carrying the provisions of this Act into execution; and the overseers or guardians to whom any such order shall be directed are hereby authorized and required to assess, raise, and levy such sums or sums of money as may be necessary for the purposes specified in such order, by such powers, ways, and means as are now by law given to or vested in churchwardens and overseers or guardians of the poor for altering, enlarging, and maintaining workhouses for the use of the poor in their respective parishes or unions : . . .

Sect. 25.

order workhouses to be enlarged or altered, without consent, &c.

Expenses, how to be raised.

XXVI. It shall be lawful for the said commissioners, by order under their hands and seal, to declare so many parishes as they

Commissioners may form parishes

Sect. 25.

Note.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 8, the power conferred upon the Local Government Board by this section, as extended by sect. 8 of 29 & 30 Vict. c. 113, applies to the providing of proper drainage, sewers, ventilation, fixtures, furniture, surgical and medical appliances, and other conveniences at any workhouse.

By the Pauper Inmates Discharge and Regulation Act, 1871 (34 & 35 Vict. c. 108), s. 9, the guardians of every union shall provide within their respective unions such casual wards, with such fittings and furniture as the Local Government Board, in their judgment, regard being had to the number of casual paupers likely to require relief therein, shall consider necessary.

Sect. 26.

Note.

A proviso to this section, that notwithstanding the union of parishes each parish should be separately chargeable with the relief of its own poor, was repealed by the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 1, which casts the expenses of the relief of the poor throughout the union upon the common fund of the union.

Under the provisions of this section the Poor Law Commissioners had power to unite parishes for the government of the poor, although one of the parishes had a local Act for the government of the poor, and although neither the trustees nor the guardians under the local Act nor the ratepayers consented to the union (*Rex* v. *Poor Law Commissioners, Re Whitechapel*, 6 A. & E. 34; 6 L. J. M. C. 114; 2 N. & P. 8; *Rex* v. *Poor Law Commissioners, Re Holborn*, 6 A. & E. 56; 7 L. J. M. C. 33; 3 N. & P. 77).

But it is now provided by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 64, that when the relief of the poor has been hitherto administered in any parish by guardians appointed under a local Act, and not by overseers of the poor, if such parish, according to the last enumeration of the population published by authority of Parliament, contain more than twenty thousand persons, it shall not be lawful for the Local Government Board, without the consent in writing of two-thirds at least of such guardians, to declare such parish to be united with any

Sect. 26.

into unions, with a common workhouse.

Classification of the poor in such workhouse.

may think fit to be united for the administration of the laws for the relief of the poor, and such parishes shall thereupon be deemed a union for such purpose, and thereupon the workhouse or workhouses of such parishes shall be for their common use, and the said commissioners may issue such rules, orders, and regulations as they shall deem expedient for the classification of such of the poor of such united parishes in such workhouse or workhouses as may be relieved in any such workhouse, and such poor may be received, maintained, and employed in any such workhouse or workhouses as if the same belonged exclusively to the parish to which such poor shall be chargeable; . . .

Justices in unions may order out-door relief to aged and infirm persons wholly unable to work.

XXVII. In any union which may be formed under this Act it shall be lawful for any two of His Majesty's justices of the peace usually acting for the district wherein such union may be situated, at their just and proper discretion, to direct by order under their hands and seals that relief shall be given to any adult person who shall from old age or infirmity of body be

---

Sect. 26. Note.

other parish for the adminstration of the laws for the relief of the poor, anything in 4 & 5 Will. 4, c. 76, to the contrary notwithstanding. This provision was, however, repealed as to the metropolis by the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 78, which in its turn is repealed by the S. L. R. Act, 1875.

Staple Inn, an extra-parochial place, never having had poor, was held to have been duly united to the Holborn Union under this section, and liable to pay contribution to the common fund (*Staple Inn* v. *Holborn*, 2 H. & C. 284; 32 L. J. M. C. 181; 9 Jur. (N. S.) 652; 27 J. P. 695).

Sect. 27. Note.

Under previous statutes, *e.g.*, 36 Geo. 3, c. 23, and 55 Geo. 3, c. 137, ss. 3, 4, justices had extensive powers of ordering relief to be given to poor persons. The provisions of those statutes are repealed by s. 53 of this Act, and the powers of justices in this direction are now strictly limited to the cases mentioned in this section, and the cases of urgent necessity mentioned in sect. 54, *infra*.

Under the previous statutes no appeal to quarter sessions lay against a justice's order for relief (*Rex* v. *North Shields*, Doug. 331; *Rex* v. *Devon JJ.*, [1815] 4 M. & S. 421); and no appeal is given by this Act, the matter being one "almost of domestic superintendence," *per* Lord Denman, C.J., in *Reg.* v. *Totnes Union*, *infra*.

Where a union comprised a borough and part of the county, the borough justices were held not to be justices "usually acting for the district wherein such union was situated," and consequently had no jurisdiction to make an order under this section on the guardians of the union for the relief of a pauper residing within the borough (*Reg.* v. *Durham JJ.*, 4 N. S. C. 437). It is doubtful whether the provisions of 30 & 31 Vict. c. 106, s. 27, make any alteration in such a case.

An order for relief of an adult unable to work issued under this section by justices to the guardians of a union without previously summoning the guardians to show cause why the order should not be made, is illegal, and may be disregarded by the guardians to whom it is addressed (*Reg.* v. *Totnes Union*, 7 Q. B. 690; 14 L. J. M. C. 148; 2 N. S. C. 82; 9 Jur. 660).

Sect. 27.

wholly unable to work, without requiring that such person shall reside in any workhouse: Provided always, that one of such justices shall certify in such order of his own knowledge, that such person is wholly unable to work as aforesaid; and provided further that such person shall be lawfully entitled to relief in such union, and shall desire to receive the same out of a workhouse.

When a union of parishes is proposed, commissioners shall ascertain the average expense for the relief of the poor incurred by each parish for three years preceding.

XXVIII. When any union of parishes for the administration of the laws for the relief of the poor shall be proposed to be made or shall be made under the provisions of this Act, it shall be lawful for the said commissioners, and they are hereby required from time to time, by such means and in such manner as they may think fit, to inquire into and ascertain the expense incurred by each parish proposed to form part of such union for the relief of the poor belonging to such parish, whether such relief shall have been given in or out of any workhouse, for the three years ending on the twenty-fifth day of March next preceding such inquiry, and thereupon the said commissioners shall proceed to calculate and ascertain the annual average expense of each parish for that period; and the several parishes included or proposed to be included in such union shall from the time of effecting the same contribute and be assessed to a common fund for purchasing, building, hiring, or providing, altering, or enlarging any workhouse or other place for the reception and relief of the poor of such parishes, or for the purchase or renting of any lands or tenements, under and by virtue of the provisions of this Act, of or for such union, and for the future upholding and maintaining of such workhouses or places aforesaid, and the payment or allowance of the officers of such union, and the providing of utensils and materials for setting the poor on work therein, and for any other expense to be incurred for the common use or benefit or on the common account of such parishes, in the like proportions as on the said annual average of the said three years such relief had cost each such parish separately, until such average shall be varied or altered as herein-after provided: Provided always, and the said commissioners are hereby authorized, if they shall so think fit, but not otherwise, from time to time, either upon the application of the guardians of such union or of the overseers of any parish forming part of the same, or without such application, to cause a like inquiry and calculation to be made and average ascertained for the three years ending on the twenty-fifth day of March next preceding such inquiry; and from and after the

Parishes to contribute to a common fund for purchasing workhouse, &c., for the union in proportion to the averages so found.

Subsequent averages may be taken, and the proportionate contributions adjusted accordingly.

Sect. 28.

Note.

The provisions of this section are in effect repealed by the Poor Removal Act, 1861 (24 & 25 Vict. c. 55), s. 9, which provides that parishes forming a union shall contribute to the common fund in proportion to their respective rateable values, which by the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 30, are to be taken from the approved valuation lists.

Sect. 28.

ascertaining of any such average, or of any succeeding average, the respective parishes of such union shall contribute and be assessed to the common fund thereof, for the purposes aforesaid, in the proportions which the expense of such parishes shall be found to have borne to each other during such period upon the average which shall have been so last ascertained, until a like inquiry shall be again made, and a new average and proportion ascertained for the future assessment of such parishes.

The average expenses of parishes formed into unions under 22 Geo. 3, c. 83, or local Acts may be taken in the same way, and their proportionate contributions adjusted accordingly.

XXIX. [*Recital as to parishes in unions formed under* 22 *Geo.* 3, *c.* 83, *or under local Acts of incorporation.*] It shall be lawful for the said commissioners, as soon as conveniently may be after the passing of this Act, to cause an inquiry to be made and an account rendered, as far as it may be practicable to render the same, by the visitors, directors, acting guardians, or other officers of such parishes or unions respectively, of the expense incurred for the relief of the poor belonging to each parish within any such union, whether such poor shall have been relieved in or out of such parish respectively, or in or out of any united workhouse, and whether such expense has been paid by the general fund of such union or the parochial funds of any of the parishes thereof, or by any private rate, or general subscription in lieu of a rate among the ratepayers of any such parish, and whether passed through the books or paid under the control of the managers or officers of such union, or not, for the period of three years, ending on the twenty-fifth day of March one thousand eight hundred and thirty-four, including therein a due proportion of the expense of maintaining the united workhouses and establishment of such union, calculated according to the actual expense otherwise incurred for the relief of the poor belonging to each such parish ; and the average annual amount of such expense shall be deemed and taken to have been the annual expense incurred by such parish on account of its poor, notwithstanding such parish may have contributed a greater or smaller sum than such annual average to the general funds of the union during such period ; and such annual average, so ascertained as aforesaid, shall, if the said commissioners shall see fit, and to such extent only as they may direct, be deemed and taken as the fixed proportion to be contributed and paid by each such parish respectively towards a common fund for the future hiring, maintaining, and upholding, repairing, altering, or enlarging of any workhouse, and the renting of any land used by such union at the passing of this Act, and for the purchasing, building, hiring, maintaining, upholding, repairing, altering, or enlarging of any new workhouse or workhouses, or other place for the reception and relief of the poor belonging to the parishes of such union, and for the renting or purchase of any lands or tenements under or by virtue of the provisions of this Act, and the payment or allowance of any officers of such union, and the

Sect. 29.

Note. See note to sect. 28, *supra*.

providing of utensils or materials for setting the poor on work therein, and for any other expense to be in future incurred for the common use or benefit of such parishes, and in addition to the cost or proportion of cost of the poor of such parishes who shall be maintained or relieved in or out of any workhouse of such union, for which each such parish shall in future be charged separately; any provision or enactment in the said recited Act or in any such local Acts to the contrary notwithstanding: Provided always, and the said commissioners are hereby authorized, if they see fit, but not otherwise, upon the application of the guardians of any such last-mentioned union, or of the overseers of any parish forming part of the same, or without such application, from time to time to cause an inquiry and calculation to be made, and average ascertained, for the three years ending on the twenty-fifth day of March next preceding such inquiry, of the expense incurred by each such parish, as well in respect of its contribution to such common fund as of the cost or proportion of cost of its poor which shall have been maintained or relieved in or out of any workhouse of such union during such period of three years; and from and after the ascertaining of such average or of any succeeding average the respective parishes of such union shall contribute and be assessed to the common fund thereof, for the purposes of which such common fund is herein-before declared to be applicable, in the proportions which the expense of such parishes shall be found to have borne to each other during such period, upon the average which shall have been so last ascertained, until a like inquiry shall be again made and a new average and proportion ascertained for the future assessment of such parishes to such common fund: Provided always, that nothing herein contained shall extend to any parishes already formed or hereafter to be formed into a union for the purposes of settlement or rating, or where the annual assessment is directed to be indifferently proportioned between the several parishes composing such union.

Sect. 29.

Subsequent averages may be taken and contributions adjusted from time to time.

[Sect. 30. *Parliamentary returns to be evidence of actual expense of poor to each parish:* Repealed by the S. L. R. Act, 1874.]

[Sect. 31. *Repeal of* 22 *Geo.* 3, *c.* 83, *s.* 5, *and* 56 *Geo.* 3, *c.* 129, *s.* 1, *in part, restraining parishes from contributing to workhouses at greater distances than ten miles; and of* 22 *Geo.* 3, *c.* 83, *s.* 29, *limiting class of persons to be sent to workhouses:* Repealed by the S. L. R. Act, 1874.]

XXXII. It shall be lawful for the said commissioners, from time to time, as they may see fit, by order under their hands and seal, to declare any union, whether formed before or after the passing of this Act (except when united for the purposes of

Commissioners may dissolve, add to, or take from any union;

Sect. 32.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 66, the Local Government Board may add parishes to, or separate

Note.

Sect. 32.

settlement or rating), to be dissolved, or any parish or parishes, specifying the same, to be separated from or added to any such union; and, as the case may be, such union shall thereupon be dissolved, or such parish or parishes shall thereupon be separated from or added to such union accordingly; and the said commissioners shall in every such case frame and make such rules, orders, and regulations as they may think fit for adapting the constitution, management, and board of guardians of every such union, from or to which there shall be such separation or

and shall thereupon make such rules as may be adapted to its altered state.

Sect. 32.

parishes from any union without the concurrence of the guardians; and may establish a board of guardians for any parish separated from a union.

Note.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 4, the Local Government Board may exercise the powers contained in this section with respect to any union governed by a local Act of Parliament, where the relief of the poor is not wholly administered by one board of guardians, without such concurrence of a majority of the guardians of such union as is required in this section.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 11, if it shall appear to the Local Government Board that it is expedient that any union should be dissolved, the said board may, after inquiry held, issue their order for the dissolution of any such union, and such dissolution shall have the same effect as in the case of a union dissolved under the provisions of this Act.

By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 58, where any poor-law union is situate in more than one county, the Local Government Board may, instead of dissolving the union, by order provide that the same shall continue to be one union for the purposes of indoor paupers or any of those purposes, and shall be divided into two or more poor-law unions for the purpose of outdoor relief, and determine all other matters in relation thereto. Similar powers are conferred on county councils for the purposes of the Local Government Act, 1894 (56 & 57 Vict. c. 73), by sect. 36 (6) of that Act.

The Dissolved Boards of Management and Guardians Act, 1870 (33 & 34 Vict. c. 2), regulates many details consequent upon the dissolution of unions with regard to officers and adjustment of rights and liabilities.

Compensation of officers deprived of office by reason of the dissolution of a union is provided for by the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 20, as extended by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 15.

Where under this section a parish is separated from a union of which it formed part, the Local Government Board has no power to order that the sums payable annually by the county council to the union under the Local Government Act, 1888, s. 24, sub-s. (2) (*d*), and s. 26, sub-s. (1), should be apportioned between the union and the parish in each year according to their respective rateable values for the time being, inasmuch as this section contemplates a final settlement between the two bodies based on an estimate of the existing proportionate values of their respective interests in the property to be apportioned (*Reg.* v. *Local Government Board*, [1901] 1 Q. B. 210).

addition as aforesaid, to the altered state of the same; and every such union shall after any such alteration be constituted, managed, and governed as if the same had been originally formed in such altered state; and in case any union shall be wholly or partially dissolved as aforesaid, then the parishes constituting, or, in case of a partial dissolution, separated from any such union, shall thenceforth be subject to be re-united, or united with other parishes or unions, or otherwise dealt with according to the provisions of this Act, as the said commissioners shall think fit: provided always, that in every such case the said commissioners shall and they are hereby required to ascertain the proportionate value to every parish of such union of the workhouses or other property held or enjoyed by such union for the use of the poor or benefit of the ratepayers therein, and also the proportionate amount chargeable on every parish in respect of all the liabilities of such union existing at the time of such dissolution or alteration of the same; and the said commissioners shall thereupon fix the amount to be received, or paid or secured to be paid, by every parish affected by such alteration; and the sum to be received, if any, by such parish shall be paid, or, as the said commissioners shall direct, be secured to be paid, to the overseers or guardians of the same, for the benefit of such parish, and in diminution of the rates thereof and of the expense attending such alteration; and the sum to be so paid or secured to be paid by every such parish shall be raised, under the direction of the said commissioners, by the overseers or guardians of such parish, or charged on the poor rates of such parish, as the said commissioners may see fit, and shall be paid or secured for the use and benefit of the union from which the same parish shall have been so separated or of the persons or parishes otherwise entitled thereto, as the case may be: Provided always, that no such dissolution or alteration of the parishes constituting any such union, nor any addition thereto as aforesaid, shall in any manner prejudice, vary, or affect the rights or interests of third persons, unless such third persons, by themselves or their agents, shall consent in writing to such dissolution or proposed alteration or addition, and that no such dissolution, alteration, or addition shall take place or be made unless a majority of not less than two-thirds of the guardians of such union shall also concur therein; and in every such case, when the said majority of the guardians of such union shall so concur in such proposed alteration, the terms on which such concurrence shall have been given, if approved by the said commissioners, shall be binding and conclusive on the several parishes of such union.

Sect. 32.

How parishes affected shall be dealt with.

Rights and interests of parishes in the property of the union, and claims on them, to be ascertained and secured.

Dissolution or alteration, &c., not to affect rights of third parties, nor to take place without the consent of two thirds of the guardians.

XXXIII. In any union already formed or which may hereafter be formed in pursuance of or under the provisions of this Act

Guardians of parishes in a union may,

Sect. 33.

Note.

The Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), has rendered the provisions of this section practically obsolete.

Sect. 33.

with consent of commissioners, agree that the parishes shall be one parish for purposes of settlement.

Agreement to be deposited with commissioners, and a counterpart with clerk of the peace.

it shall and may be lawful for the guardians elected by the parishes forming such union, by any writing under the hands of all such guardians, to agree, subject to the approbation of the said commissioners, for or on behalf of the respective parishes forming such union, that for the purposes of settlement such parishes shall be considered as one parish ; and in such case such agreement, having been first signed by the said guardians, shall be signed and sealed by the said commissioners, and one part thereof shall be deposited with the said commissioners, and a counterpart or counterparts thereof, signed by the said guardians and signed and sealed by the said commissioners, deposited with the clerk of the peace of the county, riding, division, district, or liberty in which the parishes of such union shall be respectively situate ; and the said clerk of the peace shall and is hereby required, upon the receipt of such agreement or counterpart or counterparts thereof, to file the same with the records of such county, riding, division, district, or liberty ; and from and after the depositing of the same as aforesaid the said agreement shall for ever thereafter be binding on each of such parishes, and shall not be revoked or annulled ; and the settlement of a poor person in any one of the parishes of such union shall be considered, as between such parishes, a settlement in such union, and the expense of maintaining, supporting, and relieving every such poor person, and all other expenses of maintaining, supporting, and relieving the poor to which any one of such parishes shall be liable after the depositing of such agreement, part, or counterpart as aforesaid, or of ascertaining, litigating, or adjudging the settlement of any poor person in any of such parishes, shall form part of the general expenses and be paid out of the common funds of such union : Provided always, that wherever such agreement is entered into as aforesaid the rate or proportion of contribution to such common funds to be thereafter paid by each of the parishes of such union shall be ascertained and fixed in like manner as in and by this Act is provided for in cases where any union of parishes is made or proposed to be made under the provisions thereof, and shall not be subject to further variation.

Poor to be thereafter relieved out of the common fund.

Contributions of the several parishes to be fixed.

Guardians, with consent of commissioners, may agree that union shall be one parish for purpose of rating.

XXXIV. Where the parishes of any union shall be situate within the same county, riding, division, district, or liberty, under the jurisdiction of the same justices of the peace, it shall and may be lawful for the guardians elected by the parishes forming such union, by any writing under the hands of all such guardians, to agree, with the approbation of the said commissioners, for or on behalf of the respective parishes for which they shall so act as guardians, that, for the purposes of raising in common the necessary funds for the relief of the poor of such union, such parishes shall be considered one parish ; and in such case such agreement, having been first signed by the said guardians, shall be signed and sealed by the said commissioners,

Agreement shall be deposited with

Sect. 34.

and one part thereof deposited with the said commissioners, and a counterpart or counterparts thereof, signed by the said guardians, and signed and sealed by the said commissioners, deposited with the clerk of the peace of the county, riding, division, district, or liberty, counties, district or districts, in which the said parishes of such union shall be situate; and the said clerk or clerks of the peace shall and is and are hereby required, upon the receipt of such agreement, part or counterpart, to file the same with the records of such county, riding, division, district, or liberty, or counties, district, or districts; and from and after the depositing and filing of such last-mentioned agreement or counterpart the same shall be for ever binding upon such parishes, and shall not be revoked or annulled.

commissioners, and a counterpart with clerk of the peace.

XXXV. From and after such depositing and filing of the said agreement part or counterpart, the guardians shall, under such regulations as the said commissioners shall in that respect prescribe, proceed to ascertain and assess the value of the property in the several parishes of such union rateable to the relief of the poor, and to cause to be made such surveys and valuations of the said property, or any part thereof, as may be necessary, from time to time, to make a fair and just assessment upon the said united parishes in respect of such property so rateable as aforesaid; and all rates grounded on every such valuation or assessment shall be made, allowed, published, and recovered in such and the same manner as rates for the relief of the poor are now by law made, allowed, published, and recovered; and the ratepayers shall have the like power of appeal against such last-mentioned rates as any persons now have against rates made for the relief of the poor.

Guardians to ascertain and assess value of property in the several parishes.

Rates grounded on such assessment to be allowed, &c., as poor rates.

XXXVI. From and after any such common rate shall have come into operation the proportions of contribution fixed at the period of uniting such parishes, or existing at the time of such last-mentioned agreement for a common rate, shall wholly cease; and all expenditure in respect of the poor of such union, or chargeable in any way on the poor rates of the respective parishes thereof, shall be deemed and be the common expenditure of such union, and be chargeable upon and paid out of the common or general fund to be raised upon such parishes under such common rate, according to the valuation or assessment of the rateable property in such parishes so ascertained, confirmed, and allowed by the said justices from time to time in manner herein-before provided: Provided always, that the expense of

In such cases contributions from parishes to cease, and all expenditure for the poor to be in common, and charged on the common fund raised by the common rate.

Expense of valuation.

Sect. 36.

In rural parishes the powers of owners and ratepayers under this section are transferred to the parish meeting by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 52 (1).

Note.

Sect. 36.

Proviso for consent of parishes not represented by guardians.

every such valuation shall at all times be a charge on the common rate of such parishes: Provided always, that in case any parish of any union, at the period of entering into such agreement for the purposes of settlement or a common rate, shall not be represented by a guardian elected solely by such parish, such parish shall not be bound by any such agreement, unless a majority of the owners of property and ratepayers in such parish, entitled to vote in the manner provided by this Act, shall, by their votes in writing, testify their assent to such agreement in such form as the said commissioners shall prescribe; and in case such assent shall not be so given, such parish shall be wholly omitted from such agreement, and be liable to pay such proportion only of the common assessment as it was bound to pay upon the forming of the union of such parishes.

No union to be formed under 22 Geo. 3, c. 83, without consent of commissioners.

XXXVII. No union or incorporation of parishes shall be formed under the provisions of the said Act made and passed in the twenty-second year of the reign of His late Majesty King George the Third, without the previous consent of the said commissioners, testified under their hands and seal.

Constitution, election, and powers of

XXXVIII. Where any parishes shall be united by order or with the concurrence of the said commissioners for the administration of the laws for the relief of the poor, a board of guardians

---

Sect. 37.

Note.

Gilbert's Act (22 Geo. 3, c. 83), which is the Act here referred to, is repealed by the S. L. R. Act, 1871.

Sect. 38.

Note.

The words printed in italics in this section are repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89, it being enacted by sect. 20 of that Act that there shall be no *ex-officio* or nominated guardians, and that all statutes relating to the qualification of a guardian shall be repealed.

The Local Government Board may alter the number of guardians to be elected for any parish (Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 18); may combine parishes for the election of a guardian (Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 6); and may divide parishes into wards and determine the number of guardians to be elected for each ward (Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 12).

County councils have concurrent powers with the Local Government Board of combining and dividing parishes for the election of guardians and determining the number of guardians to be elected (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 60).

The qualification for being a guardian is now prescribed by sect. 20 (2) of the Local Government Act, 1894; and the mode of election by sect. 20 (3), (4), (5) of that Act.

The subject of resignations and vacancies on boards of guardians is regulated by the Poor Law Amendment Act, 1842 (5 & 6 Vict.

Sect. 38.

boards of guardians for unions.

of the poor for such union shall be constituted and chosen, and the workhouse or workhouses of such union shall be governed, and the relief of the poor in such union shall be administered, by such board of guardians; *and the said guardians shall be elected by the ratepayers, and by such owners of property in the parishes forming such union as shall in manner herein-after mentioned require to have their names entered as entitled to vote as owners in the books of such parishes respectively*; and the said commissioners shall determine the number and prescribe the duties of the guardians to be elected in each union, *and also fix a qualification without which no person shall be eligible as such guardian, such qualification to consist in being rated to the poor rate of some parish or parishes in such union, but not so as to require a qualification exceeding the annual rental of forty pounds, and shall also determine the number of guardians which shall be elected for any one or more of such parishes, having due regard to the circumstances of each such parish: Provided always, that one or more guardians shall be elected for each parish included in such union; and such guardians, when so elected, shall continue in office until the twenty-fifth day of March next following their appointment or until others are appointed in their stead, and on such twenty-fifth day of March, or if that day should fall on a Sunday or Good Friday then on the next day following, or within fourteen days next after the said twenty-fifth day of March in every year, such guardians shall go out of office, and the guardians for the ensuing year shall be chosen*; and in the event of any vacancy occurring in such board by the death, removal or resignation, or refusal or disqualification to act of any elected guardian, between the periods of such first and the next and any subsequent annual election, or in case the full number of guardians shall not be duly elected at such subsequent election of guardians for the time being, the other or remaining members of the said board shall continue to act until the next election, or until the completion of the said board, as if no such vacancy had occurred, and as if the number of such board were complete; *and every justice of the peace residing in any such parish, and acting for the county, riding, or division in which the same may be situated, shall be an* ex-officio *guardian of such*

Justices to be guardians *ex officio*.

Sect. 38.

Note.

c. 57), ss. 11—13, subject to the qualification as to a quorum mentioned in the notes of those sections.

The details of the election of guardians are regulated by the Local Government Orders issued in pursuance of sect. 20 (5) of the Local Government Act, 1894, mentioned in the note to that sub-section, *post*.

The method of questioning an election of a guardian is by election petition under sect. 87 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), as adapted by the Local Government Orders, and where an election petition will lie *quo warranto* will not lie (*Reg.* v. *Morton*, [1892] 1 Q. B. 39; 61 L. J. Q. B. 39; 65 L. T. 611; 40 W. R. 109; 56 J. P. 105; 8 T. L. R. 50); and it is doubtful whether *quo warranto* will now lie at all except in respect of disqualification arising after election (*Ib.*).

Sect. 38.

united or common workhouses, and shall, until such board of guardians shall be duly elected and constituted as aforesaid, and also in case of any irregularity or delay in any subsequent election of guardians, receive and carry into effect the rules, orders, and regulations of the said commissioners; and after such board shall be elected and constituted as aforesaid every such justice shall ex officio *be and be entitled, if he think fit, to act as a member of such board, in addition to and in like manner as such elected guardians:* Provided always, that, except where otherwise ordered by the said commissioners, and also except for the purpose of consenting to the dissolution or alteration of any union or any addition thereto, or to the formation of any union for the purposes of settlement or rating, no *ex-officio* or other guardian of any such board as aforesaid shall have power to act in virtue of such office except as a member and at a meeting of such board; and no act of any such meeting shall be valid unless three members shall be present and concur therein: *Provided also, that nothing herein contained shall prevent such owners and ratepayers from re-electing the same persons or any or either of them to be guardians for the year next ensuing, nor from electing as a guardian any person who may already have been chosen as a guardian of any other parish.*

No guardian to have power except at the board, unless otherwise directed by the commissioners.

Three members to be a quorum.

Guardians may be re-elected, &c.

Election, &c., of guardians for single parishes.

XXXIX. If the said commissioners shall, by any order under their hands and seal, direct that the administration of the laws for the relief of the poor of any single parish should be governed and administered by a board of guardians, then such board shall be elected and constituted and authorized and entitled to act for such single parish, in like manner in all respects as is herein-before enacted and provided in respect to a board of guardians for united parishes; *and every justice of the peace resident therein, and acting for the county, riding, or division in which the same is situated, shall be and may act as an* ex-officio *member of such board.*

At elections of guardians votes to be

XL. *In all cases of the election of guardians under this Act, or* wherever the consent of the owners of property or ratepayers

---

Sect. 39.

Note.

The words in italics are repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89 (see note to sect. 38, *supra*).

Sect. 40.

Note.

The first line of this section, printed in italics, is repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89, so that the section no longer applies to the election of guardians.

The Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 15, contains elaborate regulations as to votes of owners and proxies; and sect. 16 of that Act provides that the enactment in this section as to payment of parochial rates and assessments shall be deemed to extend only to the payment of poor rates.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 11, payment of an informal poor rate is sufficient to qualify the

Sect. 40.

in any parish or union shall be required for any of the purposes of this Act, except when otherwise expressly provided for in this Act, the votes of such owners and ratepayers shall be given or taken in writing, collected, and returned, in such manner as the said commissioners shall direct; and in every such case the owner, as well as the ratepayer, in respect of any property in such parish or union, shall be entitled to vote, *and the owner shall have the same number and proportion of votes respectively as is provided for inhabitants and other persons in and by an Act made and passed in the fifty-eighth year of the reign of His said late Majesty King George the Third, intituled "An Act for the Regulation of Parish Vestries," and in and by an Act to amend the same, made and passed in the fifty-ninth year of His said late Majesty; and the ratepayers under two hundred pounds shall each have a single vote; and the ratepayers rated at two hundred pounds or more, but under four hundred pounds, shall each have two votes, and the ratepayers rated at four hundred pounds or more shall each have three votes* [*Repealed by* 7 & 8 *Vict. c.* 101, *s.* 14]; and the majority of the votes of such owners and ratepayers which shall be actually collected and returned shall in every such case be binding on such parish; and for the purpose of ascertaining the number of votes to which each such owner shall be entitled, the aggregate amount of the assessment for the time being of any property belonging to such owner in such parish, or on any person or persons in respect of the same, to the poor rate, shall be deemed to be and be taken as the annual value of such property to such owner; and where any such owner shall be the *bonâ fide* occupier of any such property, he shall be entitled to vote as well in respect of his occupation as of his being such owner: Provided always, that it shall be lawful for any owner from time to time, by writing under his hand, to appoint any person to vote as his proxy; . . . but no owner shall be entitled to vote, either in person or proxy, unless he shall, previous to the day on which he shall claim to vote, have given a statement in writing of his name and address, and the description of the property in the parish as owner whereof, or proxy for the owner whereof, he claims to vote, and if such proxy, the original or an attested copy of the writing appointing him such proxy, to the overseers of such parish; and

taken in writing, and owners as well as occupiers to vote.

Scale of voting.

Votes may be given by proxy.

Sect. 40. Note.

person paying the same to vote under this section and 7 & 8 Vict. c. 101, s. 16; and further provision is made by sect. 10 of the Act of 1844 for the voting of corporations and joint-stock companies as ratepayers, although that section is repealed so far as it relates to the election of guardians.

The operation of this section is considerably circumscribed by the provision of sect. 52 (1) of the Local Government Act, 1894, that in rural parishes any consent which may be given by the owners and ratepayers of a parish under any of the Acts relating to the relief of the poor, so far as respects dealing with parish property or the spending of money, or raising of a rate, may be given by the parish meeting of the parish.

Sect. 40.

the said overseers are hereby required to enter in the rate-books of such parish, or in some other book to be from time to time provided for that purpose, the names and addresses of the owners and proxies who shall send such statements, and the assessment of the rate for the relief of the poor of the property in respect whereof they respectively claim to vote: Provided also, that every person who shall not vote, or who shall not comply with the directions to be made by the said commissioners for the giving, taking, or returning of votes, shall be omitted in the calculation of votes, and considered as having had no vote on the question whereon he might have voted: Provided also, that no person shall be deemed a ratepayer, or be entitled to vote, or do any other act, matter, or thing as such, under the provisions of this Act, unless he shall have been rated to the relief of the poor for the whole year immediately preceding his so voting or otherwise acting as such ratepayer, and shall have paid the parochial rates and assessments made and assessed upon him for the period of one whole year, as well as those due from him at the time of so voting or acting, except such as shall have been made or become due within the six months immediately preceding such voting or acting: Provided always, that in cases of property belonging to any corporation aggregate, or to any joint-stock or other company, no member of such corporation, or proprietor of or interested in such joint-stock or other company shall be entitled to vote as such owner in respect thereof; but any officer of such corporation, joint-stock or other company, whose name shall be entered by the direction of the governing body of such corporation or company in the books of the parish, in the manner herein-before directed with respect to the owner of property, shall be entitled to vote in respect of such property in the same manner as if he were the owner thereof.

No ratepayer to vote, &c., unless rated one year, &c.

Proviso as to corporations.

[Sect. 41. *Elections of guardians, visitors, and other officers under 22 Geo. 2, c. 83, or any local Act to be made according to the provisions of this Act:* Repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89. By sect. 60 (4), (6) of that Act, the provisions of that Act are made applicable to elections of guardians under local and personal Acts, except in the case of the city of Oxford. The statute 22 Geo. 3, c. 83, is repealed by the S. L. R. Act, 1871.]

Commissioners may make rules,

XLII. The said commissioners may and are hereby authorized, by writing under their hands and seal, to make rules,

---

Sect. 42. Note.

This section is repealed so far as it relates to 22 Geo. 3, c. 83, by the S. L. R. Act, 1874, that statute having been repealed by the S. L. R. Act, 1871.

By the Poor Relief Act, 1849 (12 & 13 Vict. c. 13), s. 1, the Poor Law Board were empowered to make regulations for houses where the poor are maintained under contract.

Sect. 42.

&c., for government of present or future workhouses, and vary rules already in force or to be made hereafter.

orders, and regulations, to be observed and enforced at every workhouse already established by virtue of the said recited Act made and passed in the twenty-second year of the reign of His said late Majesty King George the Third, intituled "An Act for the better Relief and Employment of the Poor," or any general or local Act of Parliament, or hereafter to be established by virtue of such Acts, or of any of them, or of this or any other Act of Parliament relating to the relief of the poor, for the government thereof, and the nature and amount of the relief to be given to and the labour to be exacted from the persons relieved and the preservation therein of good order, and from time to time to suspend, alter, vary, amend, or rescind the same, and make any new or other rules, orders, and regulations, to be observed and enforced as aforesaid, as they from time to time shall think fit, and to alter, at their discretion, any of the rules, orders, and regulations contained in the schedule to the said recited Act, and also to alter or rescind any rules, orders, and regulations heretofore made in pursuance of the said recited Act, or any local Act of Parliament relating to workhouses or the relief of the poor; and all rules, orders, and regulations to be from time to time made by the said commissioners under the authority of this Act shall be valid and binding, and shall be obeyed and observed, as if the same were specifically made by and embodied in this Act; subject, nevertheless, to the said power of the said commissioners from time to time to rescind, amend, suspend, or alter the same: Provided always, that if any such rule, order, or regulation shall be, at the time of issuing the same, directed to and affect more than one union, the same shall be considered as a general rule, and subject and liable to all the provisions in this Act contained respecting general rules.

Rules, &c., affecting more than one union to be deemed general rules.

Sect. 42.

Note.

By the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 23, married persons above sixty years of age received into workhouses in pursuance of this Act, or of any rule or regulation made under this Act, are not to be compelled to live separate and apart.

There is a similar provision as to what constitutes a general rule in the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 15. See also the definition of "general rule" in sect. 109 of this Act, *infra*. The provisions in this Act affecting general rules were contained in sects. 16, 17, now repealed.

It was held that the Poor Law Commissioners might, by their orders, &c., under this section, control and regulate the guardians of a parish or union governed by a local Act in the management of the poor, but could not change the relation of the local authorities among themselves, nor substantially alter the machinery established under the local Act to carry out its purpose (*Reg.* v. *Poor Law Commissioners, Re St. Giles'-in-the-Fields and St. George's, Bloomsbury*, 17 Q. B. 445). And see now the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 60 (4), (5).

Sect. 43.

Justices may see rules enforced, and visit workhouses, pursuant to 30 Geo. 3, c. 49.

XLIII. Where any rules, orders, or regulations, or any bye-laws, shall be made or directed by the said commissioners to be observed or enforced in any workhouse, it shall and may be lawful for any justice of the peace acting in and for the county, place, or jurisdiction in which such workhouse shall be situate, to visit, inspect, and examine such workhouse at such times as he shall think proper, for the purpose of ascertaining whether such rules, orders, regulations, or bye-laws are or have been duly observed and obeyed in such workhouse, as well as for such other purposes as justices are now authorized to visit workhouses under and by virtue of a certain Act made and passed in the thirtieth year of the reign of His said late Majesty King George the Third, intituled "An Act to empower justices and other persons to visit parish workhouses or poorhouses, and examine and certify the state and condition of the poor, therein to the quarter sessions"; and if in the opinion of such justice such rules, orders, regulations, or bye-laws, or any of them, have not been duly observed and obeyed in such workhouse, it shall be lawful for such justice to summon the party offending in such respect to appear before any two justices of the peace to answer any complaint touching the non-observance of such rules, orders, regulations, and bye-laws, or any of them; and upon conviction before such two justices of the party so offending, such party shall forfeit and be liable to such penalties and punishments as are herein-after prescribed and provided against parties wilfully neglecting or disobeying the rules, orders, or regulations of the said commissioners: Provided always, that where no such rules, orders, regulations, or bye-laws shall have been directed by the said commissioners to be enforced and observed in the workhouse of any parish, nothing in this Act contained shall be construed to restrain or prevent any justice of the peace, physician, surgeon, or apothecary, or the officiating clergyman of any parish, from visiting such workhouse, and examining and certifying the state and condition of the same and of the poor therein, in such manner as they or any of them are authorized to do in and by the said last-recited Act.

The power given to justices, &c., by 30 Geo. 3, c. 49, to visit workhouses preserved where commissioners' rules, &c., are not in force.

XLIV. Whereas the jurisdiction of certain cities, boroughs and corporate towns is not always co-extensive with the parish

---

Sect. 43. Note.

Paid visitors of workhouses may be appointed by the Local Government Board under the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 24.

Justices are empowered by the Poor Relief Act, 1849 (12 & 13 Vict. c. 13), s. 8, to visit houses wherein the poor are maintained under contract, in the same way as they are empowered to visit workhouses under this section.

Sect. 44. Note.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 56, a workhouse of a union is deemed to be situate in every parish of the union.

in which it exists: Be it therefore enacted, that every house or building which shall be erected, purchased, or hired as and for a workhouse, together with all premises and appurtenances thereto belonging, and the land or lands occupied therewith, shall be deemed and held to be within and subject to the local jurisdiction of such incorporated city, borough, or town to which they may respectively belong, though the same may be situated in such part of the respective parishes as may not be within the chartered boundaries thereof.

Sect. 44.

Buildings taken for workhouses of cities, boroughs, &c., to be within the jurisdiction of the place to which they belong, though situated without the boundaries.

[Sect. 45. *No lunatic, insane person, or dangerous idiot to be detained in a workhouse more than fourteen days:* Repealed by the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 342. The reception of lunatics into workhouses is now regulated by sects. 21, 25, 62 and 65 of that Act.]

XLVI. It shall be lawful for the said commissioners, as and when they shall see fit, by order under their hands and seal, to direct the overseers or guardians of any parish or union, or of so many parishes or unions as the said commissioners may in such order specify and declare to be united for the purpose only of appointing and paying officers, to appoint such paid officers with such qualifications as the said commissioners shall think necessary for superintending or assisting in the administration of the relief and employment of the poor, . . . in such parish or union, or united parishes, and otherwise carrying the provisions of this Act into execution; and the said commissioners may and they are hereby empowered to define and specify and direct the execution of the respective duties of such officers, and the places or limits within which the same shall be performed, and direct the mode of the appointment and determine the continuance in office or dismissal of such officers, and the

Commissioners may direct overseers and guardians to appoint paid officers for parishes or unions:

and fix their duties, and the mode of appointment and dismissal, and the security to be given by them;

Sect. 46.

Note.

This section is repealed by the District Auditors Act, 1879 (42 & 43 Vict. c. 6), so far as relates to officers for the examining, auditing, allowing and disallowing accounts, and other provisions made in relation to such officers by that Act.

For the definition of "officer" see sect. 109, *infra*.

The officers which all guardians are required to appoint "whenever it may be required" are prescribed by the Gen. Cons. Ord., July 24th, 1847, art. 153.

All salaries of officers are now payable out of the common fund (Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 1).

The Poor Law Commissioners having before the year 1839 issued orders to boards of guardians purporting to be authorized by this section, directing the guardians to appoint collectors of the poor rate of such of the parishes of such unions as they should deem to require a collector, these orders were in that year held to be *ultra vires* and invalid (*Reg.* v. *Poor Law Commissioners, Re Strand Union*, 9 A. & E. 901; *Reg.* v. *Poor Law Commissioners, Re Cambridge Union*, 9 A. & E. 911; 8 L. J. M. C. 77). To rectify this error the Poor Rate Act, 1839 (2 & 3 Vict. c. 84), was passed, which declared that all such

Sect. 46.

amount and nature of the security to be given by such of the said officers as the said commissioners shall think ought to give security, and, when the said commissioners may see occasion, to regulate the amount of salaries payable to such officers respectively, and the time and mode of payment thereof, and the proportions in which such respective parishes or unions shall contribute to such payment; and such salaries shall be chargeable upon and payable out of the poor rates of such parish or union, or respective parishes, in the manner and proportions fixed by the said commissioners, and shall be recoverable against the overseers or guardians of such parish or union, or parishes, by all such ways and means as the salaries of assistant overseers or other paid officers of any parish or union are recoverable by law; and all such payments shall be valid, and shall be allowed in the accounts of the overseers or guardians paying the same.

and regulate their salaries.

Salaries how chargeable and recoverable.

Sect. 46. Note.

orders not rescinded or quashed before May 6th, 1839, and all appointments of collectors made in pursuance thereof, should be deemed valid and to have been authorized by 4 & 5 Will. 4, c. 76; and such appointments were validated in the future by sect. 62 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101). Moreover, the language of sect. 61 of that Act referring to the appointment of collectors or assistant overseers under orders of the Poor Law Commissioners was held to be a legislative sanction to the appointment of assistant overseers by board of guardians under such orders (*Reg.* v. *Greene*, 17 Q. B. 793; 21 L. J. M. C. 137). The power of appointing assistant overseers is, however, now taken from boards of guardians by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 81 (6).

In unions under Gilbert's Act, 22 Geo. 3, c. 83 (now repealed), it was held that the Poor Law Commissioners had authority to order the guardians to appoint an auditor and clerk to the guardians, these being officers within the meaning of this section, but could not assign to them other duties than such as are in the section mentioned (*Reg.* v. *Poor Law Commissioners*, *Re Allstonefield Union*, 11 A. & E. 558; 9 L. J. M. C. 33). And this section has been holden to apply to parishes under local Acts as well as to those which are not so, and the Local Government Board may make an order for the appointment of paid officers accordingly (*Reg.* v. *Poor Law Commissioners*, *Re St. Giles and St. George*, *Bloomsbury*, 17 Q. B. 445; 20 L. J. M. C. 236; 15 J. P. 132; *Reg.* v. *Poor Law Commissioners*, *Re St. James*, *Westminster*, 1 E. & E. 861; 29 L. J. M. C. 4; 24 J. P. 37; *Reg.* v. *St. Pancras*, E. B. & E. 583; 27 L. J. M. C. 281; 5 Jur. (N. S.) 120; 22 J. P. 385). The Local Government Board, however, cannot themselves appoint, nor can they order any other than the guardians to appoint, any of these paid officers (*Reg.* v. *Hunt*, 12 A. & E. 130; 9 L. J. M. C. 86).

Under this section the guardians may be ordered to appoint a chaplain (*Reg.* v. *Braintree*, 1 Q. B. 130; 10 L. J. M. C. 76; 3 Jur. 265); and under art. 1 of the Gen. Ord. of August 19th, 1867, the guardians may appoint and pay a Roman Catholic or Nonconformist minister to attend to the religious wants of the inmates of the workhouse (*Reg.* v. *Haslehurst*, 13 Q. B. D. 253; 53 L. J. M. C. 127; 51 L. T. 95).

The Poor Law Commissioners had power to order that the overseers of the townships comprised in a union should appoint a

Sect. 47.

Overseers, &c., to pass accounts quarterly.

XLVII. Every overseer, treasurer, or other person having the collection, receipt, or distribution of the monies assessed for the relief of the poor in any parish or union, or holding or accountable for any balance or sum of money, or any books, deeds, papers, goods, or chattels relating to the relief of the poor, or the collection or distribution of the poor rate of any parish or

---

Sect. 46.

Note.

returning officer for the election of guardians (*Reg.* v. *Oldham*, 10 Q. B. 700; 16 L. J. M. C. 110; 11 Jur. 487). The Local Government Board is now directed by sect. 48 (2) (vi.) of the Local Government Act, 1894, to make rules for the appointment of returning officers for such elections.

Guardians under a local Act appointed a master of a workhouse for a year; during the year the Poor Law Commissioners by order directed the guardians from time to time on the occurrence of a vacancy to appoint certain officers, including a master of the workhouse. The guardians during the year passed a resolution that their officers were officers at pleasure, but such resolution was not sanctioned by the commissioners under sect. 22 of this Act. *Held* that a vacancy occurred in the office of master at the end of the year which the guardians were bound to have filled up (*Reg.* v. *Oxford*, 17 Q. B. 457 n.).

A *mandamus* to a board of guardians to admit a particular candidate as clerk to the guardians as having received the majority of legal votes in his favour, was refused, it appearing that an inquiry was about to be made into the legality of the appointment of one of the guardians themselves (*Reg.* v. *Dolgelly*, 8 A. & E. 561; 7 L. J. M. C. 99).

The appointment of officers by a board of guardians should be under seal. The clerk to the master of a workhouse is not an inferior servant, nor is his nomination a matter of immediate necessity, and his appointment should therefore be under seal of the board (*Austin* v. *Bethnal Green Union*, L. R. 9 C. P. 91; 43 L. J. C. P. 100; 29 L. T. 807; 22 W. R. 406; 38 J. P. 248). So the appointment of a medical officer for any fixed or definite time should be under seal (*Dyke* v. *St. Pancras Union*, 27 L. T. 342; 36 J. P. 375).

The giving of securities by officers appointed by guardians is regulated by the Gen. Cons. Ord., July 24th, 1847, arts. 184—186 (the latter of which provides for security being dispensed with in the case of a banking firm acting as treasurer), and the Gen. Ord., February 2nd, 1872, authorizing guardians to accept guarantees of companies.

The decisions as to the liability or release of sureties of poor-law officers are collected in the note to sect. 7 of the Poor Relief Act, 1819 (59 Geo. 3, c. 12), *ante*.

Sect. 47.

Note.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 38, the words "half-year" should now be read for "quarter" in this section. By sects. 32—38 of the same Act, as amended by the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), and the District Auditors Act, 1879 (42 & 43 Vict. c. 6), provision is made for the audit of poor-law accounts by district auditors.

The "annual account now by law required" mentioned in this section refers to the account prescribed by the Poor Law Relief Act, 1601 (43 Eliz. c. 2), s. 1, the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 1, and the Poor Rate Act, 1810 (50 Geo. 3, c. 49), s. 1.

The penalties for giving false evidence were contained in sect. 13 of this Act, which is now repealed, and replaced by sect. 26 of the Poor

Sect. 47.

union, shall once in every [*quarter*], in addition to the annual account now by law required, and where the rules, orders, and regulations of the said commissioners shall have come in force, then as often as the said rules, orders, and regulations shall direct, but not less than once in every [*quarter*], make and render to the guardians, auditors, or such other persons as by virtue of any statute or custom, or of the said rules, orders, or regulations, may be appointed to examine, audit, allow, or disallow, such accounts, or in default of any such guardian, auditor, or other person being so appointed as aforesaid, then to the justices of the peace at their petty sessions for the division in which such parish or union shall be situate, a full and distinct account

Sect. 47.

Law Board Act, 1847 (10 & 11 Vict. c. 109). For recovery of penalties and forfeitures see sects. 99, 101, *infra*.

Note.

The form of order for payment by the guardians upon the treasurer of the union is prescribed by Gen. Ord., April 7th, 1857, and such order is a bill of exchange within the Bills of Exchange Act, 1882 (45 & 46 Vict. c. 61), s. 3 (3) (*In re Boyse, Crofton* v. *Crofton*, 33 Ch. D., p. 619; 56 L. J. Ch. 135; 55 L. T. 391; 35 W. R. 247).

If an order for payment of the guardians is altered by the forgery of some person and the treasurer is led to pay such order by the negligence of the guardians or their clerk, and has not been himself guilty of negligence, the loss will fall upon the guardians and not upon the treasurer. But the treasurer is not by reason of his office a banker, and is not therefore entitled to the protection of sect. 60 of the Bills of Exchange Act, 1882 (45 & 46 Vict. c. 61), in the event of his paying an order upon a forged indorsement. Where, however, the treasurer was the manager of a bank, and was so appointed in order that the guardians might have the benefit of a banking account, it was held that he thereby became entitled to the protection of that section as a "banker," and was not liable to make good losses incurred through paying orders of the guardians upon forged indorsements (*Halifax Union* v. *Wheelwright*, L. R. 10 Ex. 183; 44 L. J. Ex. 121; 32 L. T. (N. S.) 802; 23 W. R. 704; 39 J. P. 823).

Where an honorary treasurer to a board of guardians keeps an account by their order at a particular bank, on which account the board receives interest, he is not liable to make good to the board a sum lost through the failure of the bank, whether the banking account is considered to be the guardians' or his own, nor is his liability extended by his having given a bond "to pay the balance due from him" and "for the due and faithful performance of his duties.' His position is similar to that of a receiver or trustee, and he is not responsible for a loss incurred without default on his part, through the necessary employment of a mercantile agent (*Colchester Union* v. *Moy*, 68 L. T. (N. S.) 564; 57 J. P. 265).

Guardians who account to an auditor appointed under a local Act must also account to an auditor appointed in pursuance of the Poor Law Acts (*Reg.* v. *St. Andrew's, Holborn*, 6 Q. B. 78; 13 L. J. Q. B. 341; 8 Jur. 688).

An indictment against an overseer under this section for not accounting to the poor-law auditor on his request is bad unless it appear that there is some rule, order, or regulation of the Poor Law Commissioners or Local Government Board that the overseers should so account on the request of the auditor (*Reg.* v. *Crossley*, 10 A. & E. 132).

Sect. 47.

in writing of all monies, matters and things committed to their charge, or received, held, or expended by them on behalf of any such parish or union, and, if thereunto required by the justices, guardians, auditors, or other persons authorized in that behalf, shall verify on oath the truth of all such accounts and statements from time to time respectively, or subscribe a declaration to the truth thereof, in manner and under the penalties in this Act provided for parties giving false evidence or refusing to give evidence under the provisions of this Act; and all balances due from any guardian, treasurer, overseer, or assistant overseer, or other person having the control and distribution of the poor rate, or accountable for such balances, may be recovered in the same manner as any penalties and forfeitures are recoverable under this Act: Provided nevertheless, that no such proceeding shall exonerate or discharge the liability of the surety of any such treasurer, overseer, assistant overseer, or other person as aforesaid.

Recovery of balances.

Surety not to be discharged.

Commissioners may remove masters of workhouses and parish officers.

XLVIII. The said commissioners may and they are hereby authorized and empowered, as and when they shall think proper, by order under their hands and seal, either upon or without any suggestion or complaint in that behalf from the overseers or guardians of any parish or union, to remove any master of any workhouse, or assistant overseer, or other paid officer of any parish or union whom they shall deem unfit for or incompetent to discharge the duties of any such office, or who shall at any time refuse or wilfully neglect to obey and carry into effect any of the rules, orders, regulations, or bye-laws of the said commissioners, whether such union shall have been made or such officer appointed before or after the passing of this Act, and to require from time to time the persons competent in that behalf to appoint a fit and proper person in his room; and any person so removed shall not be competent to be appointed to or to fill any paid office connected with the relief of the poor in any such parish or union, except with the consent of the said commissioners under their hands and seal: Provided always, that no person shall be eligible to hold any parish office, or have the management of the poor in any way whatever, who shall have been convicted of felony, fraud, or perjury.

Disqualification for parochial office by conviction of felony, &c.

Sect. 48.

Note.

The proviso to this section is repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 89, so far as it relates to the office of parish or district councillor or guardian, and replaced by the provisions of sect. 46 of that Act.

A relieving officer may be removed under this section by the Local Government Board at their discretion, without complaint, summons, or hearing (*Ex p. Teather*, 1 L. M. & P. 7; 19 L. J. M. C. 70; 15 J. P. 36).

A chaplain of a workhouse, being a paid officer, is removable by the Local Government Board at their discretion, and not by the bishop (*Ex p. Molyneux*, 7 L. T. (N. S.) 599; 11 W. R. 233; 27 J. P. 56).

Sect. 49.

Contracts for maintenance, &c., of poor not to be valid unless conformable to the rules of commissioners or sanctioned by them.

XLIX. Any contract which shall be entered into by or on behalf of any parish or union, for or relating to the maintenance, clothing, lodging, employment, or relief of the poor, or for any other purpose relating to or connected with the general management of the poor which shall not be made and entered into in conformity with the rules, orders, or regulations of the said commissioners in that behalf in force at the time of making and entering into the same, or otherwise sanctioned by them, shall be voidable, and, if the said commissioners shall so direct, shall be null and void; and all payments made under or in pursuance of any contract not made and entered into in conformity with such rules, orders, or regulations, at any period after the said commissioners shall have declared the same to be null and void as aforesaid, shall be disallowed in passing the accounts of the overseer, guardian, or other officer by whom such payments shall have been made.

Sect. 49.

Note.

The orders regulating contracts by guardians are the Gen. Cons. Ord., July 24th, 1847, arts. 45—51, and the Gen. Ord., December 31st, 1877.

Contracts to bind a board of guardians ought to be under their corporate seal, and should relate to some matter incident to the purposes for which they were incorporated. Thus guardians cannot bind themselves by an order not under seal for making a survey and map, according to 6 & 7 Will. 4, c. 96, s. 3, of the rateable property in a parish forming part of the union, as such an order is not a contract necessarily incident to the purposes for which they are incorporated (*Paine* v. *Strand Union*, 8 Q. B. 326; 15 L. J. M. C. 89; 10 Jur. 308). Nor can they bind themselves by a contract not under seal (if they can in any manner contract), to remunerate a surveyor for attending as a witness, on appeal against a parochial assessment within the union (*Ib.*). But they are liable to pay the remuneration of an accountant employed by them, on a contract not under seal, to investigate and audit their accounts (*Haigh* v. *North Brierly Union*, E. B. & E. 873; 28 L. J. Q. B. 62; 5 Jur. (N. S.) 511; 31 L. T. 213). And where guardians order articles requisite for the purposes for which they are incorporated, or found by the jury to be necessaries, and they are supplied accordingly, it is no answer to an action for the price that the contract was not under their seal (*Nicholson* v. *Bradfield Union*, L. R. 1 Q. B. 620; 7 B. & S. 747; 35 L. J. M. C. 176; *Clarke* v. *Cuckfield Union*, 21 L. J. Q. B. 349; 16 Jur. 686; 16 J. P. 257; *Sanders* v. *St. Neots Union*, 8 Q. B. 810; 15 L. J. M. C. 104; 10 Jur. 566; *Lamprell* v. *Billericay Union*, 3 Exch. 283; 18 L. J. Ex. 383).

A local Act empowered the guardians to alter, &c., the existing poorhouse, or to erect other houses or buildings for the better receiving, employing and maintaining the poor; and it provided that all contracts made by the guardians relating to any act, matter, or thing to be done in pursuance of the Act should be in writing. By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 43, the Poor Law Commissioners are empowered to direct that schools shall be built in parochial districts. *Held* that a contract made by the guardians by order of the commissioners in relation to the erection of an industrial school within the parish was not a contract "for a thing to be done in pursuance of the

[Sect. 50. *Repeal of* 45 *Geo.* 3, *c.* 54: Repealed by the S. L. R. Act, 1874.]

Sect. 50.

The penalty imposed by 55 Geo. 3, c. 137, on persons having the management of the poor being concerned in any contract extended to persons appointed under this Act.

LI. So much of a certain Act made and passed in the fifty-fifth year of the reign of His said late Majesty King George the Third, intituled, "An Act to prevent Poor Persons in Workhouses from Embezzling certain Property provided for their use, . . . and for other purposes therein mentioned, relating to the poor," as inflicts a penalty on persons having the management of the poor if concerned in providing or in any contract for the supply of any goods, materials, or provisions for the use of any workhouse or workhouses, or otherwise for the support or maintenance of the poor for their own profit, and all remedies for the recovery of such penalties, shall apply and the same are hereby extended and made applicable to every commissioner, assistant commissioner, guardian, treasurer, master of a workhouse, or other officer to be appointed under the provisions of this Act.

Sect. 49.

Note.

local Act," and therefore was not required to be in writing (*Armstrong* v. *Bowdridge*, 16 C. B. 358).

In an action by a medical officer against guardians for salary in lieu of notice, it was held that he failed, for want of a contract under seal, to show a contract binding on the guardians to employ him beyond the time for which he had been actually employed and paid by them (*Dyke* v. *St. Pancras Union*, 27 L. T. (N. S.) 342; 36 J. P. 375).

The contract for the engagement of a clerk to the master of a workhouse by a board of guardians must, to bind the guardians, be under seal (*Austin* v. *Bethnal Green Union*, L. R. 9 C. P. 91; 43 L. J. C. P. 100; 29 L. T. (N. S.) 807; 22 W. R. 406; 38 J. P. 248).

An appointment by guardians, in pursuance of an order of the Poor Law Board under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 62, of a collector of poor rates does not constitute any contract between the guardians and the collector, and the guardians are not liable to pay his salary (*Smart* v. *West Ham Union*, 11 Exch. 867; 25 L. J. Ex. 210).

A contract entered into between the board of guardians and an individual guardian is altogether void (*Law* v. *Hodson*, 11 East, 300; *Taylor* v. *Crowland Gas and Coke Co.*, 10 Ex. 239; *Melliss* v. *Shirley Local Board*, 16 Q. B. D. 446; 55 L. J. Q. B. 143; 53 L. T. 810; 34 W. R. 187; 50 J. P. 214), unless, indeed, it is such a contract as may come within the exceptions specified in sect. 46 (2) of the Local Government Act, 1894.

Sect. 51.

Note.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 44, there is repealed so much of 55 Geo. 3, c. 137, and of this Act as renders the churchwardens and overseers of the poor of any parish comprised in a union liable to a penalty in respect of the furnishing, providing, or supplying of goods, materials, or provisions for the use of any workhouse or the support and maintenance of the poor.

The effect of the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), and of the Local Government Board Act, 1871 (34 & 35 Vict. c. 70), is also to repeal the words "commissioner and assistant commissioner," in this section, as such functionaries no longer exist.

See further on the subject of this section the provisions of sect. 77, *infra*, and cases there collected.

Sect. 52.

LII. *Whereas a practice has obtained of giving relief to persons or their families who, at the time of applying for or receiving such relief, were wholly or partially in the employment of individuals, and the relief of the able-bodied and their families is in many places administered in modes productive of evil in other respects: And whereas difficulty may arise in case any immediate and universal remedy is attempted to be applied in the matters aforesaid:* It shall be lawful for the said commissioners, by such rules, orders, or regulations as they may think fit, to declare to what extent and for what period the relief to be given to able-bodied persons or to their families in any particular parish or union may be administered out of the workhouse of such parish or union, by payments in money, or with food or clothing in kind, or partly in kind and partly in money, and in what proportions, to what persons or class of persons,

Commissioners to regulate the relief to able-bodied paupers and their families out of the workhouse.

Sect. 52.

Note.

In pursuance of this section the Poor Law Commissioners, Poor Law Board, and Local Government Board have from time to time issued orders to various unions in forms almost identical with the Outdoor Relief Prohibitory Order, December 21st, 1844; the Outdoor Relief Regulation Order, December 14th, 1852; and the Outdoor Labour Test Order, which are printed respectively at pp. 18, 285, and 786 of Macmorran & Lushington's Poor Law Orders.

This section gave no power to the commissioners, and gives none now to the Local Government Board to legislate on, or to do anything more than regulate the administration of outdoor relief, and the orders which have been issued under this section have not in any way altered the general law as to the right of able-bodied persons to be relieved. A large number of colliers in South Wales, being either on strike or lock-out, became destitute in the sense that they were in actual want of the necessaries of life, but they could have obtained sufficient wages to obtain such necessaries and to maintain themselves and their families by returning to work at the collieries, which was offered to them. They applied to the guardians for relief, and the guardians opened stoneyards and set the applicants to work therein by way of relief in such manner and to such extent as would have been legal if the men had been unable to obtain work, and paid the cost of such relief out of the poor rates. In an action against the guardians by the Attorney-General on the relation of certain ratepayers in the union, the Court of Appeal made a declaration that the payment by the defendants out of the rates of any money for setting to work or for the relief of able-bodied men who were at the time able to obtain and perform work at wages sufficient to support themselves and their wives and families (if any) was unlawful, and ought to be disallowed by the auditor on auditing the defendants' accounts; the declaration, however, not to extend to relief given to or for the wives and children of such men, and to be without prejudice to the power of the Local Government to remit the disallowed payments, although unlawfully made, under any statute enabling them to do so (*Att.-Gen.* v. *Merthyr Tydvil Union*, [1900] 1 Ch. 516).

For a summary of the law relating to the relief of able-bodied poor before the passing of this Act see *Rex* v. *Collett*, 2 B. & C. 324, and the note thereto, and *Rex* v. *Yorks, N.R. JJ.*, 2 B. & C. 286.

Sect. 52.

at what times and places, on what conditions, and in what manner such outdoor relief may be afforded: and all relief which shall be given by any overseer, guardian, or other person having the control or distribution of the funds of such parish or union, contrary to such orders or regulations, shall be and the same is hereby declared to be unlawful, and shall be disallowed in the accounts of the person giving the same, subject to the exceptions herein-after mentioned: Provided always, that in case the overseers or guardians of any parish or union to which such orders or regulations shall be addressed or directed shall, upon consideration of the special circumstances of such parish or union or of any person or class of persons therein, be of opinion that the application and enforcing of such orders or regulations, or of any part thereof, at the time or in the manner prescribed by the said commissioners, would be inexpedient, it shall be lawful for such overseers or guardians to delay the operation of such orders or regulations, or of any part thereof, for any period not exceeding the space of thirty days, to be reckoned from the day of the receipt of such orders or regulations; and such overseers or guardians shall, twenty days at the least before the expiration of such thirty days, make a statement and report of such special circumstances to the said commissioners; and all relief which shall be given by such overseers or guardians, before an answer to such report shall have been returned by the said commissioners, if otherwise lawful, shall not be deemed unlawful although the same shall have been given contrary to such orders or regulations, or any of them; but in case the said commissioners shall disapprove of such delay, or think that for the future such orders or regulations ought to come into operation notwithstanding the special circumstances alleged by such overseer or guardian, it shall be lawful for the said commissioners, by a peremptory order, to direct that from and after a day to be fixed thereby such orders and regulations, or such parts or modifications thereof as they may think expedient and proper, shall be enforced and observed by such overseers and guardians; and if any allowance be made or relief given by such overseers or guardians after the said last-mentioned period, contrary to any such last-mentioned order, the amount of the relief or allowance so given shall be disallowed in the accounts of the party giving the same: Provided also, that a quarterly report of all such cases as shall occur in any quarter shall, at the end of every such quarter, be laid by the said commissioners before one of His Majesty's principal Secretaries of State: Provided also, that in case the overseers or guardians of any parish or union in which such orders or regulations shall be in force shall depart from them or any of them in any particular instance or instances of emergency, and shall within fifteen days after every such departure report the same and the grounds thereof to the said commissioners, and the said commissioners shall approve of such departure, or if the relief so given shall have been given in food, temporary

Relief contrary to their regulations to be disallowed;

but overseers, &c., may delay the operation of such regulations under special circumstances, and make report thereof to commissioners.

If commissioners disapprove of delay, they may fix a day from which their orders shall come into operation.

Quarterly report of cases.

Proviso for cases of emergency.

Sect. 52.

lodging, or medicine, and shall have been so reported as aforesaid, then and in either of such cases the relief granted by such overseers or guardians, if otherwise lawful, shall not be unlawful or subject to be disallowed.

[Sect. 53. *Repealing* 36 *Geo.* 3, *c.* 23; 55 *Geo.* 3, *c.* 137, *ss.* 3, 4; *and* 59 *Geo.* 3, *c.* 12, *ss.* 2, 5: Repealed by S. L. R. Act, 1874.]

No relief to be in future given, except by board of guardians or select vestry. 1 & 2 Will. 4, c. 60.

LIV. The ordering, giving, and directing of all relief to the poor of any parish which, according to the provisions of any of the said recited Acts, or of an Act passed in the first and second years of the reign of His present Majesty, intituled "An Act for the better Regulating of Vestries, and for the Appointment of Auditors of Accounts in certain parishes in England and Wales," or of this Act, or of any local Acts, shall be under the government and control of any guardians of the poor, or of any select vestry, and whether forming part of any union or incorporation or not (but subject in all cases to and saving and excepting the powers of the said commissioners appointed under this Act), shall appertain and belong exclusively to such guardians of the poor or select vestry, according to the respective provisions of the Acts under which such guardians or select vestry may have been or shall be appointed; and it shall not be lawful for any overseer of the poor to give any further or other relief or allowance from the poor rate than such as shall be ordered by such guardians or select vestry, except in cases of sudden and urgent necessity, in which cases he is hereby required to give such temporary relief as each case shall require, in articles of absolute necessity, but not in money, and whether the applicant for relief be settled in the parish where he shall apply for relief or not: Provided always, that in case such overseer shall refuse or neglect to give such necessary relief in any such case of necessity to poor persons not settled or usually residing in the parish to which such overseer belongs, it shall and may be lawful for any justice of the peace to order the said overseer, by writing under his hand and seal, to give such temporary relief in articles of absolute necessity, as the case shall require, but not in money; and in case such overseer shall disobey such order, he shall, on conviction before two justices, forfeit any sum not exceeding five pounds which such justices shall order:

Temporary relief by overseers in cases of emergency.

Justice may order temporary relief, where overseers refuse it, to persons not residing in the parish.

Sect. 54.

The "said recited Acts" are the Acts repealed by sect. 53, *supra*.

Note

Liverpool is now the only parish with a select vestry having the management of the poor.

For the reimbursement of the cost of relief to casual poor by the union of their settlement see the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 2.

A general strike of workmen does not of itself create a case of "sudden and urgent necessity" within the meaning of this section (*Att.-Gen.* v. *Merthyr Tydvil Union*, [1900] 1 Ch. 516).

Provided always, that any justice of the peace shall be empowered to give a similar order for medical relief (only) to any parishioner, as well as out-parishioner, where any case of sudden and dangerous illness may require it; and any overseer shall be liable to the same penalties as aforesaid for disobeying such order: but it shall not be lawful for any justice or justices to order relief to any person or persons from the poor rates of any such parish, except as herein-before provided.

Sect. 54.

Any justice may give order for medical relief in dangerous illness.

LV. The master of every workhouse, or such other paid officer of the parish or union as the said commissioners may direct, shall, on such day and in such form as the said commissioners shall appoint, take an account of, and register in a book to be provided at the expense of the parish or union to which such workhouse shall belong, and to be kept specially for that purpose, the name of every poor person who shall on such days be in the receipt of relief at or in such workhouse, together with such particulars respecting the families and settlement of every such poor person, and his and their relief and employment, as the said commissioners shall think fit, and in like manner, on such day as the said commissioners shall appoint, the overseer of the poor of every such parish shall register in a book, to be provided and kept as aforesaid, the name of every poor person then in the receipt of relief in such parish out of the workhouse, together with such particulars respecting the family and settlement of every such poor person, and his and their relief and employments, as the said commissioners shall think fit; and after such account shall have been so taken and registered as aforesaid, a similar register and account shall be kept by the like persons respectively of all persons who shall receive relief at or in or out of a workhouse, when and as often as such relief shall be granted.

Masters of workhouses and overseers to keep registers of persons in receipt of relief in and out of workhouse.

LVI. All relief given to or on account of the wife, or to or on account of any child or children under the age of sixteen, not

Relief given to wife or children to be

The register prescribed by this section takes the place of the book or books ordered to be kept by 3 Wm. & M. c. 11, s. 11, and 9 Geo. 1, c. 7, s. 2, now repealed.

Sect. 55.

Note.

The list of books which a master of a workhouse is directed to keep will be found in the Gen. Ord. for Accounts, January 14th, 1867, arts. 19—21 (Macmorran & Lushington's Poor Law Orders, pp. 404 *et seq.*).

Relief given to a father is not relief to a son of such father (*Reg.* v. *Ireland*, L. R. 3 Q. B. 130 37 L. J. Q. B. 73; 17 L. T. (N. S.) 466; 16 W. R. 358).

Sect. 56.

Note.

A widow received relief for herself and children for five years, and, upon the death of the mother, an order being made for the removal of the children, it was objected that as by this section relief given to the children of a widow is deemed to be relief to the

Sect. 56.

considered as given to husband or father; to child of widow, as given to widow.

Parents, &c., not exempt from liability to maintain children, &c., under 43 Eliz. c. 2.

being blind or deaf and dumb, shall be considered as given to the husband of such wife, or to the father of such child or children, as the case may be, and any relief given to or on account of any child or children under the age of sixteen of any widow shall be considered as given to such widow: Provided always, that nothing herein contained shall discharge the father and grandfather, mother and grandmother of any poor child, from their liability to relieve and maintain such poor child in pursuance of the provisions of a certain Act of Parliament passed in the forty-third year of the reign of Her late Majesty Queen Elizabeth, intituled "An Act for the Relief of the Poor."

Husband liable to maintain

LVII. Every man who from and after the passing of this Act shall marry a woman having a child or children at the time of such marriage, whether such child or children be legitimate or

---

Sect. 56.

Note.

widow, the children had not been relieved within the meaning of the proviso in 9 & 10 Vict. c. 66, s. 1, and were therefore not removable; the court held that in the fair construction of that proviso, relief given to the mother for the children was relief given to the children, and that they were therefore removable under the order (*Reg.* v. *Shavington-cum-Gresby*, 20 L. J. M. C. 194). But where a girl above the age of sixteen, residing with her mother, became lunatic, and was removed from her mother to a lunatic asylum, and there maintained at the expense of the parish, this was holden not to be relief given to the mother so as to render her removable (*Reg.* v. *St. Mary, Islington*, 3 B. & S. 46; 31 L. J. M. C. 233; 9 Jur. (N. S.) 155; 6 L. T. (N. S.) 606; 26 J. P. 661).

This section does not apply to children of Irish parents born in England but not settled in England (*Rex* v. *Mile End, Old Town*, 4 A. & E. 196; 5 N. & M. 581; 5 L. J. M. C. 42).

Sect. 57.

Note.

On the re-marriage of a widow having children under sixteen years of age, the children do not by reason of this section acquire the settlement of the second husband (*Rex* v. *Walthamstow*, 6 A. & E. 301; 1 N. & P. 460; 6 L. J. M. C. 52).

A man settled in Maltby married a widow with three children, who were settled in Stafford; the man afterwards absconded, leaving his wife and her three children chargeable to Maltby. The court held that two of the children, who were above seven years of age, might be removed to Stafford, as their place of settlement, for the stepfather's liability did not in any manner suspend or otherwise affect their settlement; the third, who was under seven years of age, of course remained with the mother at Maltby, for nurture (*Reg.* v. *Stafford* or *Costock*, 10 A. & E. 417).

The mother of three children under sixteen had become a widow, and had married again, the settlement of the father of her children being in the appellant union, but that of her second husband in another union; her children were rightly removed to the appellant union (*Keynsham Union* v. *Bedminster Union*, 3 Q. B. D. 344; 47 L. J. M. C. 73; 42 J. P. 292; approved in *Llanelly Union* v. *Neath*, [1893] 2 Q. B. 38; 62 L. J. M. C. 112; 69 L. T. 194; 57 J. P. 694).

illegitimate, shall be liable to maintain such child or children as a part of his family, and shall be chargeable with all relief, or the cost price thereof, granted to or on account of such child or children, until such child or children shall respectively attain the age of sixteen, or until the death of the mother of such child or children; and such child or children shall, for the purposes of this Act, be deemed a part of such husband's family accordingly. Sect. 57. children of wife born before marriage, legitimate or illegitimate, up to age of sixteen, or death of mother.

LVIII. Any relief, or the cost price thereof, which shall be given to or on account of any poor person above the age of twenty-one, or to his wife, or any part of his family under the age of sixteen, and which the said commissioners shall by any rule, order, or regulation declare or direct to be given or considered as given by way of loan, and whether any receipt for such relief, or engagement to repay the same, or the cost price thereof, or any part thereof, shall have been given or not by the person to or on account of whom the same shall have been so given, shall be considered, and the same is hereby declared to be, a loan to such poor person. Such relief as commissioners may direct shall be considered as a loan.

LIX. In all cases where any relief shall have been given by way of loan, or where any relief, or the cost price thereof, shall be treated as a loan, under the rules, orders, and regulations of the said commissioners, or the provisions of this Act, it shall be lawful for any justice, upon the application of the overseers or guardians of the parish or union providing such relief, and upon proof of the same having been given to or on account of any such person, his wife or family, as aforesaid, and of the same, or any part thereof, still remaining due, to issue a summons, requiring such person, as well as the master or employer of such person, or some person on his behalf, to appear before any two justices, at a time and place to be named in such summons, to show cause why any wages due, or which may from time to time become due from such master or employer, should not be paid over, in whole or in part, to such Justices may attach wages in hands of master or employer for repayment of relief given by way or loan.

This section replaces sect. 29 of the Poor Relief Act, 1819 (59 Geo. 3, c. 12), now repealed. Sect. 58. Note.

By art. 7 of the Outdoor Relief Prohibitory Order, December 21st, 1844, no relief which may be contrary to any regulation in that order may be given by way of loan. By Gen. Ord., January 9th, 1878, school fees paid by guardians may be considered as given by way of loan to the parent.

Proceedings for the recovery of relief given by way of loan are regulated by sect. 59, *infra*, and by the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 8.

By the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 8, proceedings may also be taken in the county court to recover relief given by way of loan. Sect. 59. Note.

Sect. 59.

overseers or guardians; and if no sufficient cause be shown to the contrary, or if such person, or some one on his behalf, shall not appear on the return of such summons, then the said justices shall, by order under their hands, direct the master or employer for the time being from whom any wages shall be due or from time to time become due or payable to such poor person, to pay, either in one sum or by such weekly or other instalments as the said justices shall in their discretion think fit, taking into consideration the circumstances of such poor person and his family, out of such wages, to such overseers or guardians, the amount of such relief, or so much thereof as shall from time to time be due or unpaid; and the payment to and receipt of any such overseer or guardian shall be a good discharge to such master or employer for so much of any such wages as shall be so paid by virtue of any such order; and if any such master or employer shall refuse or neglect to pay to the overseer or guardian producing any such order the money thereby directed to be paid, according to the terms of such order, and at the periods thereby fixed for such payment, the same may be levied and recovered, and the payment thereof from time to time enforced against such master or employer, in such and the like manner as penalties and forfeitures are recoverable under this Act.

Mode of proceeding by overseers, &c., against masters for recovery thereof.

[Sect. 60. *Repealing so much of* 43 *Geo.* 3, c. 47, *as required relief to be given to wives and families of substitutes, hired men, or volunteers of militia:* Repealed by the S. L. R. Act, 1874.]

Justices to certify that rules of commissioners have been complied with in binding poor children apprentices.

LXI. From and after the period at which any rule, order, or regulation of the said commissioners shall come into operation for the binding of poor children apprentices, in addition to such assent or consent, order, or allowance of justices, as are now required by law, such justices or any one justice are and is hereby authorized and required to examine and ascertain whether the rules, orders, or regulations of the said commissioners then in force for the binding of poor children apprentices have been complied with, and to certify the same at the foot of every such contract or indenture, and of the counterpart thereof, in such form and manner as the said commissioners by such rules, orders, or regulations may direct; and until so certified no such contract or indenture of apprenticeship shall be valid: Provided nevertheless, that nothing in this Act, or in any rule, order, or regulation of the said commissioners,

Power of justices as between

Sect. 61.

Note

The previous statutes, still unrepealed, relating to the binding of parish apprentices are the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 3; the Parish Apprentices Act, 1792 (32 Geo. 3, c. 57); the Parish Apprentices Act, 1802 (42 Geo. 3, c. 46); and the Parish Apprentices Act, 1816 (56 Geo. 3, c. 139).

The provisions of this section are apparently rendered unnecessary by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 12.

shall affect the jurisdiction of any justices of the peace over any master or apprentice during the period of apprenticeship.

Sect. 62.

master and apprentice preserved.

LXII. It shall and may be lawful for the ratepayers in any parish, and such of the owners of property therein as shall in manner herein-before mentioned, have required their names to be entered in the rate-books of such parishes respectively as entitled to vote as owners, assembled at a meeting to be duly convened and held for the purpose, after public notice of the time and place of holding such meeting, and the purpose for which the same is intended to be held, shall have been given in like manner as notices of vestry meetings are published and given, to direct that such sum or sums of money, not exceeding half the average yearly rate for the three preceding years, as the said owners and ratepayers so assembled at such meeting may think proper, shall be raised or borrowed as a fund, or in aid of any fund or contribution for defraying the expenses of the emigration of poor persons having settlements in such parish, and willing to emigrate, to be paid out of or charged upon the rates raised or to be raised for the relief of the poor in such parish, and to be applied under and according to such rules, orders, and regulations as the said commissioners shall in that behalf direct: Provided always, that no such direction for raising money for such purpose as aforesaid shall have any force or effect unless and until confirmed by the said commissioners; and that the time to be limited for the repayment of any sum so charged on such rates as aforesaid shall in no case exceed the period of five years from the time of borrowing the same: Provided also, that all sums of money so raised as last herein-before mentioned, and advanced by way of loan for the purposes of emigration, or such proportion thereof as the said commissioners shall by any rule, order, or regulation from time to time direct, shall be recoverable against any such person, being above the age of twenty-one years, who or whose family, or any part thereof, having consented to emigrate, shall refuse to

Ratepayers and owners may raise money on security of rates for expenses of emigration of poor persons having settlements in the parish.

Recovery of expenses incurred from person refusing to emigrate after consenting, or returning.

Sect. 62.

Note.

In rural parishes the powers of the ratepayers and owners as to raising money under this section are transferred to the parish meeting by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 52 (1).

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 29, guardians are to apply all monies raised for emigration purposes subject to the restrictions imposed by this section. By the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 101), s. 5, guardians may assist in the emigration of certain poor and charge the cost upon the union; by the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 20, they may expend limited sums for emigration purposes without a previous vestry meeting; by the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), ss. 4, 14, they may assist in the emigration of orphans and deserted children; and by the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 9, all unexpended emigration money must be applied in reduction of the loan or current rate by which the same was raised.

For the recovery of the cost of relief given by way of loan, see sect. 59, *supra*, and note thereto.

Sect. 62.

emigrate after such expenses shall have been so incurred, or having emigrated shall return, in such and the like manner as is herein-before provided with respect to relief, or the cost price of relief, given or considered to be given by way of loan to any person, his wife or family.

Overseers may apply to Loan Commissioners under 57 Geo. 3, c. 34, and amending Acts for advance of money for building workhouses, emigration, &c., on security of rates.

LXIII. Where it shall be lawful, under the provisions of any of the herein-recited Acts, or of any local Act, or of this Act, to raise or borrow any sum or sums of money for the purpose of purchasing, building, altering, or enlarging any workhouse or workhouses in any parish or union, or for purchasing land whereon to build the same, or for defraying the expenses of the emigration of poor persons having settlements in any parish and being willing to emigrate, it shall be lawful for the overseers or guardians of such parish or union, with the consent of the said commissioners, to be testified under their hands and seal, to make application for an advance of any sum necessary for any such purposes to the commissioners appointed under an Act made and passed in the fifty-seventh year of the reign of His late Majesty King George the Third, intituled "An Act to authorize the issue of Exchequer Bills, and the advance of money out of the Consolidated Fund, to a limited amount, for the carrying on of Public Works and Fisheries in the United Kingdom, and Employment of the Poor in Great Britain, in manner therein mentioned," and of any Act or Acts passed for amending or continuing the same; and the said Exchequer Bill Loan Commissioners are hereby empowered to make such advances, upon any such application as aforesaid, upon the security of the rates for the relief of the poor in such parish or union, and without requiring any further or other security than a charge on such rates.

No settlement by hiring and service, residence under the same, or serving office.

LXIV. From and after the passing of this Act no settlement shall be acquired by hiring and service, or by residence under the same, or by serving an office.

[Sect. 65. *No settlement incomplete under hiring and service to be completed:* Repealed by the S. L. R. Act, 1874.]

Sect. 63.

Note.

Such loans may now be made by the Public Works Loans Commissioners (38 & 39 Vict. c. 89, Sched. I.). County councils are also empowered by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 69 (1) (d), to borrow money with the consent of the Local Government Board for the purpose of making advances to any person or bodies of persons, corporate or unincorporate, in aid of the emigration or colonization of inhabitants of the county.

For the borrowing powers of guardians generally, see the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, and the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 2.

Sect. 64.

Note.

All Acts or portions of Acts under which a settlement could be acquired by hiring and service, or by serving an office, are now repealed. Such settlements were created by the Poor Relief Act, 1691 (3 W. & M. C. 11), ss. 6, 7.

Sect. 66.

No settlement by occupation without paying poor rate for one year;

LXVI. From and after the passing of this Act no settlement shall be acquired or completed by occupying a tenement, unless the person occupying the same shall have been assessed to the poor rate, and shall have paid the same, in respect of such tenement for one year.

nor by being apprenticed in the sea service:

LXVII. From and after the passing of this Act no settlement shall be acquired by being apprenticed in the sea service,

Sect. 66.

Note.

Settlement by occupying a tenement is now regulated by the Poor Relief (Settlement) Act, 1825 (6 Geo. 4, c. 57); the Poor Relief (Settlement) Act, 1831 (1 Will. 4, c. 18), and this section, in addition to the requirement deduced from the Poor Relief Act, 1662 (13 & 14 Car. 2, c. 12), of a personal residence in the parish for forty days.

Assessment to and payment of poor rate.

The word "assessed" in this section has the same meaning as the word "charged" in 3 Wm. & M. c. 11, s. 6, and it is not therefore in every case necessary, in order to satisfy the requirements of this section, that the name of the occupier should appear in the rate-book if it is proved that the parish or union officers intended to charge him with payment of the rate, and he actually has paid it (*Reg.* v. *Hulme*, 4 Q. B. 538; 12 L. J. M. C. 100; 7 Jur. 464).

A father and son, respectively named Thomas and William Atkinson, were joint tenants of premises of sufficient value to confer a settlement on both. The son alone occupied the premises; the father paid the rent. In the rate-books "Mr. Atkinson" appeared as the name of the occupier of the premises in respect of two rates, and in a third rate the name of "Thomas Atkinson" appeared. The rates were demanded from and paid by the father. *Held* that the sessions were justified in finding that there was a sufficient occupation and payment of rent, as well as a sufficient assessment to and payment of rates to confer on the son, William Atkinson, a settlement under 1 Will. 4, c. 18, and this section, and that if this had not been so, he had sufficiently been charged with and paid his share of the public taxes to gain a settlement under 3 Wm. & M. c. 11 (*Reg.* v. *Husthwaite*, 18 Q. B. 447; 21 L. J. M. C. 189; 16 Jur. 1068).

Where it is necessary to prove payment of the poor rate for a whole year, it is no excuse for the non-payment of the rate for the last quarter that such rate, though made during the year, was not published till after its expiration (*Reg.* v. *St. Mary Kalendar*, 9 A. & E. 626; 1 P. & D. 495).

A pauper occupied premises at a yearly rent under an agreement by which the landlord was to pay all rates, and the rent was higher on that account than it would otherwise have been. The pauper was assessed to the poor rate as occupier, but the landlord always paid the rate. *Held* that the pauper did not gain a settlement by being charged with, or assessed to, and paying the poor rate, either under 3 Wm. & M. c. 11, s. 6, or this section (*Reg.* v. *South Kilvington*, 5 Q. B. 216; 13 L. J. M. C. 3; 7 Jur. 1108).

An entry of the receipt of rates by a clerk of a collector who was duly appointed is sufficient evidence of payment under this section (*Reg.* v. *St. Mary, Warwick*, 1 E. & B. 816; 22 L. J. M. C. 109; 17 Jur. 551).

Sect. 67.

Note.

Settlement by apprenticeship was established by the Poor Relief Act, 1691 (3 Wm. & M. c. 11), s. 8.

Sect. 67.

or to a householder exercising the trade of the seas as a fisherman or otherwise, nor by any person now being such an apprentice in respect of such apprenticeship.

nor by possession of any estate within a parish except during residence within ten miles thereof.

LXVIII. No person shall be deemed, adjudged, or taken to retain any settlement gained by virtue of any possession of any estate or interest in any parish, for any longer or further time than such person shall inhabit within ten miles thereof; and in case such person shall cease to inhabit within such distance, and thereafter become chargeable, such person shall be liable to be removed to the parish wherein previously to such inhabitancy he may have been legally settled, or in case he may have

---

Sect. 68.

Note.

For the acquisition of settlement by estate see the Poor Relief Act, 1662 (13 & 14 Car. 2, c. 12), s. 1, and the Poor Relief Act, 1722 (9 Geo. 1, c. 7), s. 5.

A man purchased a leasehold house for 1,575*l.*, for an unexpired term of four years, subject to a rent of 150 guineas a year: it was held that this was an "estate or interest" within the meaning of this statute, and that he lost the settlement he had gained by residing in it, by going to reside at a distance of more than ten miles from the parish in which it was situate (*Reg.* v. *St. Giles-in-the-Fields*, 2 Q. B. 446; 11 L. J. M. C. 18; 1 G. & D. 557; 6 Jur. 192). As to the change of residence, it has been held that even where a person having thus a settlement by estate, became insane, and was removed to the county lunatic asylum at a distance of more than ten miles, he thereby lost his settlement by estate (*Reg.* v. *Whissendine*, 2 Q. B. 450; 11 L. J. M. C. 42; 1 G. & D. 560; 6 Jur. 192).

The words "within ten miles thereof," in the above section, mean within ten miles of the parish, and not within ten miles of the estate, and must be measured in a straight line from the house which the party inhabits, to the boundary of the parish in which the estate is situate (*Reg.* v. *Saffron Walden*, 9 Q. B. 76; 15 L. J. M. C. 115; 2 N. S. C. 260; 10 Jur. 639).

If, after gaining a settlement by estate, the party leave the parish and inhabit at a greater distance than ten miles from it, but he afterwards come and reside in the parish, whilst he continues seised of or otherwise entitled to the estate, his settlement does not immediately revive; nor will he be deemed to have gained a fresh settlement by estate until after forty days' residence in the parish (*Reg.* v. *Scrivencum-Tentergate*, MS. 1843). And if he part with the estate, and then come back to the parish to reside, it is clear that his settlement by estate does not revive (*Reg.* v. *St. Giles-in-the-Fields*, *supra*). Where, however, the children of a man who has acquired a settlement by estate, become emancipated whilst he continues to have the settlement, and the father afterwards removes to a distance of more than ten miles from the parish, so that he himself loses the settlement, the children will retain the settlement they derived from him at the time of their emancipation (*Reg.* v. *Hendon*, 2 Q. B. 455; 12 L. J. M. C. 3). But if he leave the parish, and reside at a greater distance than ten miles from it, whilst his children are unemancipated, they, as well as the father and mother, lose their settlement there (*Reg.* v. *Llansaintffraid Glan Conway*, 2 E. & B. 803; 23 L. J. M. C. 5; 17 Jur. 1101).

subsequently to such inhabitancy gained a legal settlement in some other parish, then to such other parish. Sect. 68.

[Sect. 69. *Repealing Acts relating to liability and punishment of putative father and punishment of mother of illegitimate children:* Repealed by the S. L. R. Act, 1874.]

[Sect. 70. *Securities and recognizances for indemnity of parishes against children likely to be born bastards to be null and void:* Repealed by the S. L. R. Act, 1874.]

LXXI. Every child which shall be born a bastard after the passing of this Act shall have and follow the settlement of the mother of such child until such child shall attain the age of sixteen or shall acquire a settlement in its own right, and such Mother of illegitimate children, while unmarried,

---

By sect. 57, *supra*, if the woman afterwards marry, her husband is bound to maintain her illegitimate children until they attain the age of sixteen, or until the death of the mother. Sect. 71. Note.

There is no liability on the part of the personal representative of a deceased mother of an illegitimate child under sixteen years of age to pay out of the assets the expenses of such child's maintenance incurred after the mother's death (*Ruttinger* v. *Temple*, 4 B. & S. 491; 33 L. J. Q. B. 1; 9 Jur. (N. S.) 1239; 9 L. T. (N. S.) 256).

The words "shall have and follow the settlement of the mother of such child until such child shall attain the age of sixteen, or shall acquire a settlement in its own right," have been interpreted to mean that an illegitimate child took and followed any settlement which its mother had or acquired, whether in her own right or by marriage (*Reg.* v. *St. Mary, Newington*, 4 Q. B. 581; 12 L. J. M. C. 68; 3 G. & D. 626; 7 Jur. 440), while the child was under the age of sixteen, and retained such settlement until the age of sixteen although the mother might have died (*Reg.* v. *Sutton-under-Brailes*, 5 E. & B. 814; 25 L. J. M. C. 57; 26 L. T. 198; 2 Jur. (N. S.) 210); but when it had reached that age it ceased to have or follow the settlement of the mother, and reverted to its birth settlement, which it thenceforth retained until it acquired a settlement of its own (*Bodenham* v. *St. Andrew's, Worcester*, 1 E. & B. 465; 22 L. J. M. C. 39; 17 Jur. 206).

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 35, it is provided that "an illegitimate child shall retain the settlement of its mother until such child acquires another settlement," the practical effect of which clause, after making due allowance for the differences arising from the circumstance that in law a bastard has no father, is to place illegitimate as nearly as may be on the same footing with legitimate children, by giving them the privilege of retaining their parentage settlement after emancipation until the acquisition of a new settlement, and to get rid of the decision in *Bodenham* v. *St. Andrew's, Worcester, supra* (*Reigate Union* v. *Croydon Union*, 14 App. Cas. 465; 59 L. J. M. C. 29; 61 L. T. 733; 38 W. R. 295; 53 J. P. 580). That section, however, does not apply retrospectively to a bastard who had attained the age of sixteen before the passing of the Act, and had in accordance with the law existing at that time reverted to his

Sect. 71.

bound to maintain the same until sixteen.

mother, so long as she shall be unmarried or a widow, shall be bound to maintain such child as a part of her family until such child shall attain the age of sixteen; and all relief granted to such child while under the age of sixteen shall be considered as granted to such mother: Provided always, that such liability of such mother as aforesaid shall cease on the marriage of such child, if a female.

[Sects. 72—76 related to proceedings in bastardy, and are repealed by the S. L. R. Act, 1874, being replaced by the provisions of the Bastardy Laws Amendment Act, 1872 (35 & 36 Vict. c. 65), and Acts amending the same.]

No person employed in administration of poor laws to furnish, for his own profit, goods or provisions given in parochial relief.

LXXVII. It shall not be lawful for any person hereafter to be appointed in any parish or union to any office concerned in the administration of the laws for relief of the poor, or for any person who after the twenty-fifth day of March one thousand eight hundred and thirty-five shall fill any such office, to furnish or supply, for his own profit or on his own account, any goods, materials, or provisions ordered to be given in parochial relief, or to furnish or supply any goods, materials, or provisions for or in respect of the money ordered to be given in parochial relief to any person in such parish or union; and every person holding such office shall, on conviction before any two justices of the peace, be subject to a penalty of five pounds for such offence, one half of which penalty shall be paid to the informer, and the other half in aid of the poor rates of such parish or union.

[Sect. 78. *Recovery of sums payable under* 43 *Eliz. c.* 2, *s.* 7, *by relations of poor persons:* Repealed and replaced by 31 & 32 Vict. c. 122, s. 36.]

Sect. 71.

birth settlement (*Tenterden Union* v. *St. Mary, Islington*, 47 L. J. M. C. 81; 38 L. T. 485).

Note.

Even since the passing of 39 & 40 Vict. c. 61, the settlement of an illegitimate child under the age of sixteen years is *primâ facie* in the parish where it was born; and if an order of removal is made adjudicating its settlement to be in such parish, and is appealed against, it lies upon the appellants to prove some other or superior settlement, *e.g.*, the settlement of its mother. In this respect the law is the same as to legitimate and illegitimate children (*Headington Union* v. *Ipswich Union*, 25 Q. B. D. 143; 59 L. J. M. C. 92; 62 L. T. 786; 38 W. R. 586; 54 J. P. 516).

Sect. 77.

See sect. 51, *supra*, and the Poor Relief Act, 1815 (55 Geo. 3, c. 137), s. 6, and cases there collected.

Note.

So much of this Act and of 55 Geo. 3, c. 137, as renders the churchwardens and overseers of the poor of any parish comprised in a union liable to a penalty in respect of the furnishing, providing, or supplying of goods, materials, or provisions for the use of any workhouse or the support and maintenance of the poor, is repealed by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 44.

Sect. 79.

No person to be removed till twenty-one days after notice of his being chargeable has been sent to the parish to which order of removal is directed.

Such person may be removed sooner if order submitted to.

LXXIX. No poor person shall be removed or removable under any order of removal from any parish or workhouse, by reason of his being chargeable to or relieved therein, until twenty-one days after a notice in writing of his being so chargeable or relieved, accompanied by a copy or counterpart of the order of removal of such person, . . . shall have been sent, by post or otherwise, by the overseers or guardians of the parish obtaining such order, or any three or more of such guardians, to the overseers of the parish to whom such order shall be directed: Provided always, that if such overseers or guardians as last aforesaid, or any three or more of such guardians, shall by writing under their hands agree to submit to such order, and to receive such poor person, it shall be lawful to remove such poor person according to the tenor of such order, although the said period of twenty-one days may not have elapsed: Provided also, that if notice of appeal

---

Sect. 79.

Note.

The words omitted from this section requiring the notice of chargeability to be accompanied by a copy of the examination upon which the order was made were repealed by the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 1, which Act provides, by sect. 2, that the notice must be accompanied by a statement in writing setting forth the grounds of removal, &c.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 2, boards of guardians of unions are empowered to obtain orders of removal in the same manner and subject to the like incidents as overseers of parishes under this section; and by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 25, boards of guardians of single parishes may, when authorized by the Local Government Board, apply for orders of removal and defend appeals in the place of overseers, with like powers and subject to the like liabilities as guardians of a union.

By the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 4, any notice or document required to be given by guardians in respect of an order of removal is to be deemed sufficiently authenticated if signed by their clerk, and by sect. 6 guardians may, by consent, remove a pauper without an order.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 24, when an order of removal is obtained by guardians of a union not formed under 4 & 5 Will. 4, c. 76, or by the guardians of any parish not included in a union so formed, in respect of a pauper settled in some parish in a union so formed, such order shall be addressed to the guardians of such union and dealt with in all respects as provided by the Union Chargeability Act, 1865.

It was formerly held that the omission to send a notice of chargeability was a good ground of appeal (*Reg.* v. *Brixham*, 8 A. & E. 375; 7 L. J. M. C. 87; 3 N. & P. 408). But that decision has since been overruled, and it has been held that if an appeal be brought in such a case the proper mode of proceeding is for the sessions to dismiss the appeal, inasmuch as there is no grievance to appeal against, the service of the order without the notice of chargeability being a mere nullity (*Reg.* v. *Shrewsbury, Recorder of*, 1 E. & B. 711; 22 L. J. M. C. 98; 17 J. P. 503).

A notice of chargeability should name the paupers, and where it merely stated that "the persons named in the order hereunto

Sect. 79.

No removal pending appeal.

against such order of removal shall be received by the overseers or guardians of the parish from which such poor person is directed in such order to be removed within the said period of twenty-one days, it shall not be lawful to remove such poor person until after the time for prosecuting such appeal shall have expired, or, in case such appeal shall be duly prosecuted, until after the final determination of such appeal.

In case of appeal the overseers of parish appealing may examine the person touching his settlement; and he may be removed for examination.

Expenses of removal.

LXXX. The overseers or guardians of the parish giving such notice of appeal, or their attorney, or any other person authorized by them, shall, until such appeal shall have been heard and decided, at all proper times have free access to such poor person for the purpose of examining him touching his settlement; and in case it shall be necessary for the more effectual examination of such person that he should be taken out of the removing parish, such overseers or guardians shall be permitted to remove him therefrom for the time which may be necessary for that purpose: Provided always, that the expense of such removal, and of his maintenance during the same, shall be defrayed by the appellant parish.

Grounds of appeal to be stated.

LXXXI. In every case where notice of appeal against such order shall be given, the overseers or guardians of the parish

---

Sect. 79.

Note.

annexed" have become chargeable, &c., and a counterpart of the order was written on the back of the same paper, it was holden insufficient (*Reg.* v. *Gomersal*, 12 Q. B. 76; 17 L. J. M. C. 163; 3 N. S. C. 284). But where the notice of chargeability stated that Elizabeth Goldie was chargeable to the parish, and the order of removal was for the removal of Elizabeth Goldie and her daughter, who, at the hearing of the appeal, was proved to be of the age of five months only: the court held that as the child could not be separated from the mother, it was immaterial whether it was mentioned in the notice of chargeability or order or not (*Reg.* v. *Stockton-on-Tees*, 7 Q. B. 520; 14 L. J. M. C. 128; 9 J. P. 570), in which case it was also held that the words "has become chargeable" in a notice of chargeability are equivalent to "is chargeable."

The period of twenty-one days during which the pauper may not be removed is, by the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 9, extended by an additional fourteen days in certain cases where a request is made for a copy of the depositions on which the order of removal is founded, and the appellant is bound to give notice of appeal within the twenty-one days or the extended time, otherwise no appeal will be allowed.

Sect. 80.

Note.

By reason of the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), ss. 2, 3, and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 25 (see note to sect. 79, *supra*), the first line of this section should now read "the guardians of the parish or union," and the final word in the section, "parish," should read "parish or union."

Sect. 81.

Note.

As to the substitution of boards of guardians of unions or parishes for overseers under this section, and the authentication of

Sect. 81.

appealing against such order, or any three or more of such guardians, shall, with such notice, or fourteen days at least before the first day of the sessions at which such appeal is intended to be tried, send or deliver to the overseers of the respondent parish a statement in writing under their hands of the grounds of such appeal; and it shall not be lawful for the overseers of such appellant parish to be heard in support of such appeal, unless such notice and statement shall have been so given as aforesaid: Provided always, that it shall not be lawful for the respondent or appellant parish, on the hearing of any appeal, to go into or give evidence of any other grounds of removal, or of appeal against any order of removal, than those set forth in such respective order, examination, or statement as aforesaid.

Sect. 81.

documents by the clerk of such boards of guardians, see note to sect. 79, *supra*.

Note.

By the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 10, the statement of grounds of appeal may be sent by post, or otherwise, in like manner as a copy of an order of removal. The fact that they are received in the ordinary course of post on a Sunday is no objection (*Reg.* v. *Leominster*, 2 B. & S. 391; 31 L. J. M. C. 95; 6 L. T. (N. S.) 216; 8 Jur. (N. S.) 793); but if they are so received they must be considered as having been received on the Monday, and if the delivery on the subsequent Monday would be too late, the delivery in ordinary course of post on the Sunday is bad (*Asprell* v. *Lancashire JJ.*, 16 Jur. 1067; S. C. *Ex parte Ashford*, 16 J. P. 759).

Requisites of grounds of appeal.

By the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 4, provision is made for defeating technical objections to the statement of grounds of appeal and for amending defects therein, and, by sect. 5, for visiting with costs the insertion of frivolous or vexatious grounds of appeal. The following cases upon the sufficiency of the statement of grounds of appeal, although useful for guidance, have not now the same importance as before the Act of 1848.

Where the grounds of appeal were that the pauper, in or about the year 1830, paid parochial rates for a tenement in the parish of I., rented by him at the sum of 15*l.* a year, and occupied by him for more than a year, and rent for the same to the amount of 10*l.* being paid by him; and also that he rented the aforesaid tenement in the said parish of I., at the rent of 15*l.* a year, and occupied it under such hiring for more than a year, and paid rent to the amount of 10*l.* for the same,—but without further describing the tenement, or stating the name of the landlord: the court held this to be bad for uncertainty, and that the sessions were warranted in not hearing the appeal upon the merits (*Reg.* v. *Sussex JJ.*, [1840] 10 A. & E. 682; 9 L. J. M. C. 22).

Where the year in which a hiring and service took place was omitted, the court held the statement bad, it not appearing but that the appellants had it in their power to state the time, as well as the other particulars of the settlement (*Reg.* v. *Bridgewater*, 10 A. & E. 693; 10 L. J. M. C. 42). But in an appeal against an order of removal, the ground of an appeal stated was, that *about*

Sect. 81.

Note.

the year 1813, the father of the pauper rented a tenement for a year and upwards in the township of H., or within the parish of B., in the county of Stafford; H., in which the tenement was really situate, was a township in the parish of B., but the overseers of the appellant parish not knowing whether it maintained its own poor, stated the situation of the tenement in this way; it was objected that the year of holding should have been stated with certainty, and not merely *about* the year 1813, which was uncertain and bad: but Coleridge, J., held that to be sufficient, for the word "about" would tie the appellants to prove a holding at or a little before or after the time stated; it was then objected that stating the tenement to be in H. or B. was uncertain and bad: and Coleridge, J., held it to be so; the appellants should state with certainty where the settlement was gained, and if they were ignorant of the township of H. maintaining its own poor, they might readily have ascertained the fact upon inquiry (*Reg.* v. *Derbyshire JJ.*, [1838] 1 W. W. & H. 323; and see *Reg.* v. *Ealing*, 12 Q. B. 178 n.; 18 L. J. M. C. 185; 13 J. P. 297). Where the ground was that the respondent parish had acknowledged the pauper's husband to be settled in their parish by relieving him several times during the last six years, whilst residing out of their parish, and particularly by relieving him several times in 1839 and 1840, whilst he was residing in Liverpool: this was holden sufficient (*Reg.* v. *Carnarvonshire JJ.*, 2 Q. B. 325; 11 L. J. M. C. 3).

A statement of grounds of appeal alleging a settlement acquired by payment of parochial rates for a tenement consisting of houses must, since 6 Geo. 4, c. 57, aver that the tenement was separate and distinct (*Reg.* v. *Ripon JJ.*, 7 Q. B. 225; 14 L. J. M. C. 102).

In stating a subsequent settlement, the essential requisites in the grounds of appeal are that it state all the facts necessary to constitute the settlement, and that it state them with sufficient certainty to enable the opposite party to inquire into the statement, and if necessary, to proceed to trial. And therefore, where the grounds of appeal were, that the pauper gained a subsequent settlement in the parish of C. by "hiring and serving for a year and upwards"; and afterwards gained another settlement in the township of B. "by hiring and service for a year and upwards, and also by having served several years under a general hiring," in the said township, without giving names or dates: the court held this statement to be defective and bad, as giving no real information to the respondents (*Reg.* v. *Derbyshire JJ.* [1837], 6 A. & E. 885). Where the grounds of appeal set up a settlement by renting a tenement, and stated that pauper's husband rented and occupied it, but omitted to state a residence in the parish, it was holden bad (*Reg.* v. *Yorks. W. R. JJ.*, [1842] 2 Q. B. 505; *Reg.* v. *Old Stratford*, 2 Q. B. 513).

The sessions have no jurisdiction to hear and determine an appeal against an order of removal where the notice of appeal, and statement of grounds of appeal, are given, not by the guardians, but by individual ratepayers who allege that they are aggrieved by the order (*Reg.* v. *Colbeck*, 12 A. & E. 161; 9 L. J. M. C. 61; 3 P. & D. 488).

Time for sending grounds of appeal.

If the statement of grounds of appeal be sent with the notice of appeal, it is sufficient to deliver it as many days before the first day of the sessions as by the practice of the sessions are requisite for the service of a notice of appeal. If, however, it is sent separately, it must be delivered fourteen clear days before the first day of the

Sect. 81.

Note.

sessions (*Reg.* v. *Sussex JJ.*, [1865] 4 B. & S. 966; 34 L. J. M. C. 69; 11 L. T. (N. S.) 740; 11 Jur. (N. S.) 300; 13 W. R. 471; see note to 11 & 12 Vict. c. 31, s. 9).

A statement was served on December 19th, and the sessions were to be holden on January 2nd following. The court held that it was served too late; the statute requires it to be sent or delivered "fourteen days at least" before the first day of the sessions, which means fourteen clear days, exclusive of the first day of the sessions and of the day of service, which was not the case here (*Reg.* v. *Salop JJ.*, [1838] 8 A. & E. 173; 2 N. & P. 286; 1 W. W. & H. 158; 2 Jur. 807).

Notice of chargeability was sent on September 18th, 1835; and on October 9th the opposite party gave notice of appeal for the next sessions to be holden on October 23rd and annexed a statement of the grounds of appeal to it; but finding they had made a mistake in the notice of appeal, they gave another on October 13th, stating that the grounds of appeal had already been delivered on the 9th. It was objected, as to the notice of the grounds of appeal, that if it were to be deemed a notice of the 13th, it would not be fourteen days before the sessions, and therefore would be bad; or if it were to be deemed a notice of the 9th, then the notice of the grounds of appeal would be delivered before the notice of appeal, which would be absurd: but the court held it to be well enough, as it had been in fact delivered fourteen days before the sessions, and if there were any absurdity in sending it before the notice of appeal, that absurdity was introduced by the Act itself (*Rex* v. *Suffolk JJ.*, [1835] 4 A. & E. 319; 5 L. J. M. C. 3).

Notice of appeal against an order of removal was given for the Epiphany sessions, and a statement of the grounds of appeal regularly served; but on account of the pressure of business at those sessions the appeal was adjourned to the Easter sessions; fourteen days before these latter sessions, the appellants served another statement of the grounds of appeal, and at the trial of the appeal elected to abide by this latter statement. The sessions held that the grounds of appeal in this case should have been served before the Epiphany sessions at which the appeal was "intended to be tried," and therefore confirmed the order without further hearing the parties. The court, however, held the service of the second statement to be good, saying that they did not think the legislature intended to bind the parties by their first statement; and they granted a *mandamus* to the justices to enter continuances and hear the appeal (*Rex* v. *Derbyshire JJ.*, [1838] 6 A. & E. 612 n.; 1 W. W. & H. 365).

An appeal was heard, but, the justices being equally divided, was adjourned to the next sessions; in the interval, the appellants served a new statement, containing fresh grounds of appeal. The court held that this could not be done: the case had been heard, and the rehearing at the subsequent sessions must be upon the same grounds of appeal (*Reg.* v. *Arlecdon*, 11 A. & E. 87).

Upon an appeal being called on, and as the respondent's counsel was beginning to state his case, the appellants made an application to have the hearing adjourned to the next sessions, on the ground of the absence of a material witness, which was granted; fourteen days before the next sessions the appellants served fresh grounds of appeal; at the hearing the sessions quashed the order of removal on evidence given in support of one of these fresh grounds. The court held that the sessions were right in allowing of it; and they distinguished this case from *R.* v. *Arlecdon*, *supra*, for there the appeal had been tried

Sect. 82.

Parish losing appeal to pay such costs as court may direct.

LXXXII. Upon every such appeal the court before whom the same shall be brought shall and may, if they think fit, order and direct the parish against which the same shall be decided to pay to the other such costs and charges as may to such court appear just and reasonable, and shall certify the amount thereof; and in case the overseers of the poor of the parish liable to pay the same shall, upon demand, and upon the production of such certificate, refuse or neglect to pay the same, the amount thereof may be recovered from such overseer in the same manner as any penalties or forfeitures are by this Act recoverable.

Sect. 81.

Note.

and was ripe for decision at the first sessions (*Reg.* v. *Kendal*, 1 E. & E. 492; 28 L. J. M. C. 110; 5 Jur. (N. S.) 545; 23 J. P. 68).

An order of removal was made on September 6th and served on the 10th. On the 20th the appellants wrote by their clerk to the respondents, stating that inquiry had been made into the case, and setting forth the facts ascertained, and stating, "I shall on these grounds appeal against your order." On September 26th the depositions were applied for and received on the 30th. On October 7th the appellants gave a formal notice of appeal for the "next general quarter sessions." The quarter sessions were held on October 16th, at which the appellants did not appear, but at which the respondents appeared and applied for costs, which were not allowed. On October 20th the respondents removed the pauper. On December 23rd a fresh notice of appeal and grounds were served. At the Epiphany sessions the justices declined to hear the appeal. *Held* that the justices were right and that the appellants ought to have entered and respited the appeal at the October sessions (*Reg.* v. *Peterborough JJ.*, 7 E. & B. 643; 26 L. J. M. C. 153; 3 Jur. (N. S.) 887; 29 L. T. 124).

Sect. 82.

Note.

As to the substitution in this section of the words "union or parish" for "parish," and "board of guardians" for "overseers," see note to sect. 79, *supra*.

By the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 5, a general power is conferred on quarter sessions to award costs on any appeal, such costs to be recoverable either in the manner provided by 11 & 12 Vict. c. 43, s. 27, or by 12 & 13 Vict. c. 45, s. 18.

Costs are in the discretion of the sessions (*Rex* v. *Northamptonshire JJ.*, 1 Sess. Ca. 422); but where a quarter sessions made a general rule "that forty shillings costs only be in future allowed in appeals," and upon an appeal being decided in favour of the appellants and the order quashed, an application was made that the appellants should be allowed the real costs in the cause without reference to this general rule, and an offer was made to prove that they had incurred very heavy expenses; whereupon the justices deliberated a short time, and then pronounced judgment that the order be quashed, with forty shillings costs. Upon motion for a *mandamus* to the justices to enter continuances, and to consider, award and order such costs to the appellants as they should think reasonable and just, Coleridge, J., granted it, saying that it appeared from the affidavits that the justices had not exercised

Sect. 83.

[Sect. 83. *Party making frivolous or vexatious appeals to pay costs:* Repealed by the S. L. R. Act, 1874, being rendered unnecessary by the more general enactments in the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 5, and the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 6.]

Cost of relief to be paid by parish to which poor persons are adjudged to belong; and to be recoverable from such parish by the parish paying th same.

LXXXIV. The parish to which any poor person whose settlement shall be in question at the time of granting relief shall be admitted or finally adjudged to belong shall be chargeable with and liable to pay the cost and expense of the relief and maintenance of such poor person, and such cost and expense may be recovered against such parish in the same manner as any penalties or forfeitures are by this Act recoverable: Provided always, that such parish, if not the parish granting such relief, shall pay to the parish by which such relief shall be granted the cost and expense of such relief and maintenance from such time only as notice of such poor person having become chargeable shall have

---

their discretion in that particular case (*Reg.* v. *Staffordshire JJ.*, 26 L. J. M. C. 179).

Sect. 82.

Note.

In strictness the amount of the costs of an appeal should be mentioned in the judgment, that is, in the order of the sessions (*Selwood* v. *Mount*, 1 Q. B. 726); and therefore the costs should be taxed before the conclusion of the sessions (*Reg.* v. *Long*, 1 Q. B. 740; *Reg.* v. *Westmoreland JJ.*, 12 L. J. M. C. 113); but by consent of the parties the costs may be taxed out of sessions (*Freeman* v. *Read*, 9 C. B. (N. S.) 301; 30 L. J. M. C. 123); and the practice to tax out of sessions has become so common that the slightest evidence of consent would suffice (*Midland Ry. Co.* v. *Edmonton*, [1895] A. C. 485; 64 L. J. Q. B. 710; 72 L. T. 811; 60 J. P. 68); if, however, no consent has been given to taxation out of sessions, a subsequent court of quarter sessions has no jurisdiction to order the clerk of the peace to tax the costs of the appeal (*Ib.*).

Sect. 84.

Note.

As to the substitution in this section of the words "union or parish" for "parish" and "board of guardians" for "overseers," see note to sect. 79, *supra*.

As to suspending orders of removal see the Poor Removal Act, 1795 (35 Geo. 3, c. 101), s. 2, and the Poor (Settlement and Removal) Act, 1809 (49 Geo. 3, c. 124), s. 3.

By the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), s. 10, all provisions which relate to the sending and service of copies of orders of removal shall apply to such orders when suspended and to all orders consequent upon such suspension.

By the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 8, provision is made for the payment from time to time of expenses of maintenance under suspended orders of removal.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 26, orders of removal may be suspended in the case of unions and the expenses of maintenance recovered quarterly.

A pauper was actually removed, but it appeared that he had resided in the removing parish more than five years before the making of the original order of removal, and there was an appeal

Sect. 84.

Relief under suspended order of removal not to be recoverable unless notice of such order be sent to parish to which it is directed.

been sent by such relieving parish to the parish to which such poor person shall be so admitted or finally adjudged to belong: Provided always, that no charges or expenses of relief or maintenance shall be recoverable under a suspended order of removal unless notice of such order of removal, with a copy of the same, . . . shall have been given within ten days of such order being made to the overseers of the poor of the parish to whom such order is directed.

LXXXV. It shall be lawful for the said commissioners and they are hereby empowered, from time to time as they may

---

Sect. 84. Note.

against the order for costs on this ground. The court held that as the removal was illegal, it was the same as if there had been no removal at all, and therefore quashed the order for costs (*Reg.* v. *Chedgrave* (No. 1), 12 Q. B. 206; 19 L. J. M. C. 54; 14 Jur. 1092). The overseers afterwards applied to two justices for an order for the costs of maintenance under 4 & 5 Will. 4, c. 76, s. 84, but the justices refused it, conceiving that the section did not apply to such a case. The court, however, upon a rule being applied for commanding the justices to make the order, held that this section did apply to such a case, and they made the rule absolute (*Reg.* v. *Chedgrave* (No. 2), or *Reg.* v. *Wodehouse*, 15 Q. B. 1037; 20 L. J. M. C. 23).

An order of removal of a female pauper was made, notice of chargeability was served, and no notice of appeal was given. The pauper being pregnant, though not unable to travel at the date of the order, was not removed until after birth of the child, about six months later. *Held* that the removing parish could only recover from the parish of settlement under this section the costs of maintenance for twenty-one days after service of the notice of chargeability. *Held* also that proceedings for the recovery of such costs must, by virtue of the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), s. 11, be commenced within six months of their becoming payable (*Hill* v. *Thorncroft*, or *Cullumpton* v. *Brighton*, 3 E. & E. 257; 30 L. J. M. C. 52; 3 L. T. (N. S.) 318; 7 Jur. (N. S.) 163).

The general practice for nearly a century was that the order for costs of maintenance under a suspended order of removal should be made *ex parte*. In 1891, however, a divisional court held that this practice sanctioned by 35 Geo. 3, c. 101, s. 2, was repealed by 4 & 5 Will. 4, c. 76, s. 84, or at all events by sect. 6 of the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), and that an application to justices by the removing union for an order for the payment by the union to which the pauper belongs, of the cost of his maintenance during the period of suspension, must be made upon summons served upon the union which it is sought to make liable for such costs (*Reg.* v. *Yorks. W. R. JJ.*, [1891] 1 Q. B. 722; 60 L. J. M. C. 122).

Sect. 85. Note.

By the Vestries Act, 1831 (1 & 2 Will. 4, c. 60), s. 39, vestries of parishes adopting that Act must make out and publish yearly a list of estates, charities, and bequests, &c., with the application thereof. For the transfer of public and charitable property to the parish councils of rural parishes see the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 14).

Sect. 85.

Commissioners may call for accounts of estates held in trust for relief of poor, &c.

think fit, to require from all persons in whom any freehold, copyhold, or leasehold estate, or any other property or funds belonging to any parish, and held in trust for or applicable to the relief of the poor, or which may be applied in diminution of the poor rate of such parish shall be vested, or who shall be in the receipt of the rents, profits, or income of any such estate, property, or funds, a true and detailed account in writing of the place where such estate may be situate, or in what mode or on what security such other property or funds may be invested, with such details of the rents, profits, and income thereof, and of the appropriation of the same, and of all such other particulars relating thereto, as the said commissioners may direct and require; and such statement or a true copy thereof shall, under the regulations of the said commissioners, be open for the inspection of the owners of property and ratepayers in such parish: Provided always, that nothing hereinbefore contained shall apply to any funds raised from time to time by the voluntary contributions of the inhabitants of any parish.

Exception in case of voluntary contributions.

Advertisements, mortgages, contracts, &c., not liable to stamp duty.

LXXXVI. No advertisement inserted by or under the direction of the said commissioners in the *London Gazette* or any newspaper, for the purpose of carrying into effect any provisions of this Act, nor any mortgage, bond, instrument, or any assignment thereof, given by way of security in pursuance of the rules, orders, or regulations of the said commissioners, and conformable thereto, nor any contract or agreement, or appointment of any officer, made or entered into in pursuance of such rules, orders, or regulations, and conformable thereto, nor any other instrument made in pursuance of this Act, nor the appointment of any paid officer engaged in the administration of the laws for the relief of the poor, or in the management or collection of the poor rate, shall be charged or chargeable with any stamp duty whatever.

[Sect. 87. *Bonds and securities made pursuant to* 22 *Geo.* 3, *c.* 83, *and assignments thereof exempted from stamp duty:* Repealed by the S. L. R. Act, 1874.]

[Sect. 88. *Letters to and from Board of Commissioners to be free of postage if sent conformably hereto:* Repealed by the S. L. R. Act, 1874.]

Sect. 86.

Note.

The duty on advertisements was repealed in 1853. Apprenticeship deeds for pauper or charity apprentices are exempted from stamp duty by the Stamp Acts, 1869 and 1891 (33 & 34 Vict. c. 97; 54 & 55 Vict. c. 39, schedule).

An agreement for the purchase of real property put up for sale in pursuance of an order of the Poor Law Commissioners is exempt from stamp duty under this section (*Banbury Union* v. *Robinson*, 4 Q. B. 919; Dav. & M. 92; 12 L. J. Q. B. 327).

Sect. 89.

Payments by overseers, &c., contrary to this Act to be disallowed.

LXXXIX. All payments, charges, and allowances made by any overseer or guardian, and charged upon the rates for the relief of the poor, contrary to the provisions of this Act, or at variance with any rule, order, or regulation of the said commissioners made under the authority of this Act, shall be and the same are hereby declared to be illegal, any law, custom, or usage to the contrary notwithstanding: and every justice of the peace is hereby required to disallow as illegal and unfounded all payments, charges, or allowances, contrary to the provisions of this Act, or to any such rule, order, or regulation of the said commissioners, which shall be contained in any account of any overseer of the poor or guardian which shall be presented for the purpose of being passed or allowed: Provided always, that no allowance by any justice shall exonerate or discharge such overseer or guardian from any penalty or legal proceeding to which he may have rendered himself liable by having acted contrary to the rules, orders, and regulations of the said commissioners, or to the provisions of this Act.

Service of summons.

XC. The leaving of any summons authorized to be issued by any commissioner, assistant commissioner, or justice of the peace, under this Act, at the usual or last known place of abode of the party to whom such summons shall be directed, shall in every case be deemed good and sufficient service of such summons.

[Sect. 91. *Repeal of so much of 5 Geo. 4, c. 80, as relates to prohibition of spirituous liquors in workhouses:* Repealed by the S. L. R. Act, 1874.]

Penalty on persons introducing spirituous or fermented liquors into workhouses.

XCII. If any person shall carry, bring, or introduce, or attempt or endeavour to carry, bring, or introduce, into any workhouse now or hereafter to be established, any spirituous or fermented liquor, without the order in writing of the master of such workhouse, it shall be lawful for the master of such workhouse, or any officer of the same acting under his direction, to apprehend or cause to be apprehended such offender, and to

---

Sect. 89. Note.

The Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32—36, provides for the appointment, &c., of auditors of poor-law accounts, and sect. 37 repealed so much of this section as relates to the power of justices to audit accounts in any district for which an auditor should be appointed. The whole of England and Wales is now divided into districts, for which auditors are appointed under the District Auditors Act, 1879 (42 & 43 Vict. c. 6), and the powers of justices under this section have wholly ceased.

Sect. 92. Note.

Further provision is made on this subject by art. 146 of the Gen. Cons. Ord., July 24th, 1847.

The words omitted from the end of this section as to the term of imprisonment are repealed by the Summary Jurisdiction Act, 1884.

carry him or her before a justice of the peace, who is hereby empowered to hear and determine such offence in a summary way; and upon conviction thereof the party so offending shall forfeit and pay any sum of money not exceeding ten pounds for every such offence, as such justice may direct; and in default of payment of the penalty hereby imposed such justice may and is hereby required to commit such offender to the common gaol. . . . Sect. 92.

Penalty on master of workhouse allowing use of spirituous, &c., liquors, or ill-treating poor persons, &c.

XCIII. If any master of a workhouse shall order any spirituous or fermented liquor to be carried, brought, or introduced into any workhouse, except for the domestic use of himself or of any officer of the said workhouse, or their respective families, or except by and under the written authority of the surgeon of such workhouse, or of any justice visiting the same, or of the guardians of such workhouse, or in conformity with any rules, orders, or regulations of the said commissioners; or if any such master or any other officer of any workhouse shall carry, bring, or introduce into such workhouse, or sell, use, lend, or give away therein, or knowingly permit or suffer to be carried, brought, or introduced, or sold, used, lent, or given away therein, any spirituous or fermented liquor, contrary to the rules, orders, and regulations of the said commissioners, or shall punish with any corporal punishment any adult person in such workhouse, or confine any such person for any offence or misbehaviour for any longer space of time than twenty-four hours, or such further space of time as may be necessary in order to have such person carried before a justice of the peace, or shall in any way abuse or ill-treat, or be guilty of any other misbehaviour, or otherwise misconduct himself towards or with respect to any poor person in such workhouse, every such master or officer of a workhouse so offending shall for every such offence, upon the complaint of the overseers or guardians of the parish or union to which such workhouse shall belong, or of any such poor person, and upon conviction of such offence before any two justices, forfeit and pay such sum of money, not being more than twenty pounds, as such justices may direct; and in default of payment of the penalty hereby imposed such justices may and are hereby required to commit such offender to the common gaol . . . Provided always, that if at the time when any such master or officer of a workhouse shall be so convicted of any such offence there shall be due to him any sum of money or salary in respect of his employment as such master or officer of such workhouse, or upon any balance of account from the overseers or guardians of the parish or union

Power for justices to order salaries, &c., to be stopped, and applied towards payment of penalties.

Sect. 93.

The words omitted from this section as to the term of imprisonment are repealed by the Summary Jurisdiction Act, 1884.

Note.

Provisions for the prevention of the supply of spirituous liquors in "workhouses or houses for the entertainment of the parish poor" are contained in 24 Geo. 2, c. 40, ss. 13—16.

Sect. 93.

to which such workhouse shall belong, it shall be lawful for such justices, upon the application of such overseers or guardians, by order in writing under their hand to direct that such sum of money, salary, or balance, so far as the same shall extend, or a sufficient part thereof, shall be retained and applied for the use of such parish or union by such overseers or guardians, in payment or part payment of any such penalty; and such order shall be a good and valid discharge to such overseers or guardians for so much money as may by such order be directed to be so retained and applied against the claim or demand of the master or other officer of such workhouse in respect of any such sum of money, salary, or balance.

Masters to hang up copies of two preceding clauses in workhouses.

XCIV. The master of every workhouse shall cause one or more copy or copies of the two preceding clauses to be printed or fairly written, and hung up in one of the most public places of such workhouse, and renew the same from time to time, so that it be always kept fair and legible, on pain of forfeiting the sum of ten pounds for every wilful default.

Penalties on overseers and other officers disobeying justices and guardians.

XCV. In case any overseer, assistant overseer, master of a workhouse, or other officer of any parish or union, shall wilfully disobey the legal and reasonable orders of such justices and guardians in carrying the rules, orders, and regulations of the said commissioners or assistant commissioners, or the provisions of this Act into execution, every such offender shall, upon conviction before any two justices, forfeit and pay for every such offence any sum not exceeding five pounds.

No overseer to be prosecuted for not executing illegal orders of justices or guardians.

XCVI. Provided always, that no overseer shall from henceforth be liable to any prosecution or penalty for not carrying into execution any illegal order of such justices or guardians, any law or statute to the contrary notwithstanding.

Penalty on overseers, &c., purloining,

XCVII. If any overseer, assistant overseer, master of a workhouse, or other paid officer, or any other person employed by or under the authority of the said guardians, shall purloin,

---

Sect. 95. Note.

By the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 14, parish officers are liable to penalties for not obeying that Act; and by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 103), s. 63, overseers are liable to penalties for neglecting to comply with contribution orders.

Sect. 97. Note.

An assistant overseer elected under 59 Geo. 3, c. 12, s. 7, is to be deemed the servant of the inhabitants of the parish, and to receive money collected by him for the poor rate levied upon the parish, as such servant, and may be so described in an indictment for embezzling such money so received (*Reg.* v. *Carpenter*, L. R. 1 C. C. R. 29; 35 L. J. M. C. 169; 12 Jur. (N. S.) 380; 14 L. T. (N. S.) 572); and by the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 15,

Sect. 97.

&c., goods, &c., 20*l.*, and treble the value of the goods, and disqualification for office.

embezzle, or wilfully waste or misapply any of the monies, goods, or chattels belonging to any parish or union, every such offender shall, besides and in addition to such pains and penalties as such person so offending shall, independently of this Act, be liable to, upon conviction before any two justices, forfeit and pay for every such offence any sum not exceeding twenty pounds, and also treble the amount or value of such money, goods, or chattels so purloined, embezzled, wasted, or misapplied; and every person so convicted shall be for ever thereafter incapable of serving any office under the provisions of this or any other Act in relation to the relief of the poor.

Penalty on persons wilfully disobeying rules, orders, and regulations of commissioners, &c.

XCVIII. In case any person shall wilfully neglect or disobey any of the rules, orders, or regulations of the said commissioners or assistant commissioners, or be guilty of any contempt of the said commissioners sitting as a board, such person shall, upon conviction before any two justices, forfeit and pay for the first offence any sum not exceeding five pounds, for the second offence any sum not exceeding twenty pounds nor less than five pounds, and, in the event of such person being convicted a third time, such third and every subsequent offence shall be deemed a

---

Sect. 97. Note.

in respect of any indictment or criminal proceeding every collector or assistant overseer appointed under the authority of any order of the Local Government Board is to be deemed and taken to be the servant of the inhabitants of the parish whose money or other property he shall be charged to have embezzled or stolen, and shall be so described. An assistant overseer appointed by a parish council is also properly described in an indictment for embezzlement as the servant of the inhabitants of the parish (*Reg.* v. *Smallman*, [1897] 1 Q. B. 4; 66 L. J. Q. B. 82; 75 L. T. 394).

An information against an overseer under this section for misapplying money belonging to a parish was held to be bad because it did not allege that the defendant "wilfully" misapplied it (*Carpenter* v. *Mason*, 12 A. & E. 629; 10 L. J. M. C. 1; 4 P. & D. 439).

An assistant overseer was bound, on receiving payment of rates, to pay them into a bank and then get a receipt from the overseers. He fraudulently obtained some receipts, on pretence of having paid the sums into the bank, and with a view to deceive the auditor. He afterwards entered these sums to his debit in the book he kept. *Held* he was rightly convicted of embezzlement, and that his debiting himself in his book of account did not in any way purge the offence (*Reg.* v. *Guelder*, 3 L. T. (N. S.) 337; 24 J. P. 742).

Sect. 98. Note.

The provisions of this section are extended by the Poor Relief Act, 1849 (13 & 13 Vict. c. 13), s. 1, to cases of disobedience to orders, &c., made in respect of houses where the poor are maintained by contract.

A relieving officer has not an absolute discretion in deciding what is a case of "urgent necessity," and if he improperly refuses relief in a case in which the applicant ought to be relieved, he may be convicted for such refusal under this section (*Clark* v. *Joslin*, 27 L. T. (N. S.) 762).

Sect. 98.

misdemeanour, and such offender shall be liable to be indicted for the same offence, and shall on conviction pay such fine, not being less than twenty pounds, and suffer such imprisonment, with or without hard labour, as may be awarded against him by the court by or before which he shall be tried and convicted.

Forfeitures, costs, and charges may be levied by distress and sale.

XCIX. All penalties and forfeitures by this Act inflicted or authorized to be imposed for any offence against the same shall, upon proof and conviction of the offences respectively before any two justices, either by the confession of the party offending, or by the oath of any credible witness or witnesses (which oath such justices are in every case hereby fully authorized to administer), or upon order made as aforesaid, be levied, together with the costs attending the information, summons, and conviction, by distress and sale of the goods and chattels of the offender or person liable or ordered to pay the same respectively, by warrant under the hands of the justices before whom the party may have been convicted, or, on proof of such conviction, by a warrant under the hands of any two justices acting for the county, riding, or division (which warrant such justices are hereby empowered and required to grant); and the overplus (if any), after such penalties and forfeitures and the charges of such distress and sale are deducted, shall be returned, upon demand, unto the owner or owners of such goods and chattels;

Offenders may be detained till distress warrants are returned;

and in case such fines, penalties, and forfeitures shall not be forthwith paid upon conviction, then it shall be lawful for such justices as aforesaid to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security, to the satisfaction of such justices as aforesaid, for his or their appearance before such justices on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than seven days from the time of taking any such security, and which security the said justices as aforesaid are hereby empowered to take by way of recognizance or otherwise;

and committed in default of distress.

but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for any such justices as aforesaid, as the case may be, and they are hereby authorized and required, by warrant or warrants under their hands, to cause such offender or offenders to be committed to the common gaol or house of correction of the county, riding, or place where the offender shall be or reside,

Sect. 99.

Note.

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 10, in proceedings for penalties and forfeitures under this section, full costs are to be allowed.

Sums, &c., certified by auditors to be due may be recovered in the same manner as penalties and forfeitures are recoverable under this section (Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32).

there to remain without bail or mainprize for any term not exceeding three calendar months, unless such penalties and forfeitures, and all reasonable charges attending the same, shall be sooner paid and satisfied; and the penalties and forfeitures, when so levied, shall be paid to or for the use of the parish or union where such offence shall have been committed, to be applied in aid of the poor rate of such parish or union. Sect. 99. Application of penalties.

[Sect. 100. *Owners, ratepayers, &c., may be competent witnesses:* Repealed by the S. L. R. Act, 1874.]

CI. In all cases in which any penalty or forfeiture is recoverable before the justices of the peace under this Act, it shall and may be lawful for any commissioner or assistant commissioner or any justice, to whom complaint in writing shall be made of any such offence, to summon the party complained against to appear before any two justices; and on such summons the said two justices may hear and determine the matter of such complaint, and on proof of the offence convict the offender and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same. Proceedings before justices by summons for the recovery of penalties.

[Sect. 102. *Satisfaction recoverable for special damage, but distress not unlawful for want of form in the proceedings: Plaintiff not to recover for irregularity if tender of amends be made:* Repealed by the S. J. Act, 1884.]

CIII. Provided also, that if any person or persons shall find himself, herself, or themselves aggrieved by any order or conviction of any justice or justices, where such person or persons shall be convicted in any penalty or penalties exceeding five pounds, [or if any person shall find himself aggrieved by Appeal to the quarter sessions against order of justices within four

---

Sect. 101. Note.

The powers, &c., of the commissioners having been transferred to the Local Government Board by the Local Government Board Act. 1871 (34 & 35 Vict. c. 70), it is provided by sect. 5 of that Act that secretaries and assistant secretaries of the board may do any act in the name of the board if so authorized by general order. A general order so authorizing them was issued May 26th, 1877.

Sect. 103. Note.

The words in brackets have ceased to be operative by reason of the repeal by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 1, of the powers to make bastardy orders under this Act: an appeal is given by sect. 4 of that Act, which must be brought subject to the conditions and regulations of the Summary Jurisdiction Acts (*Reg.* v. *Shingler*, 17 Q. B. D. 49; 55 L. J. M. C. 147; 54 L. T. 759; 51 J. P. 152; 34 W. R. 490); the effect of sect. 31 of the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), and sect. 6 of the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), being that all appeals from courts of summary jurisdiction are subject to the conditions and regulations of the Act of 1879 (*Reg.* v. *Shingler*, *supra*).

Sect. 103.

calendar months after cause of complaint, &c.

any order made under the provisions of this Act on such person as the putative father of any bastard child], it shall be lawful for such person or persons to appeal to any general or quarter sessions of the peace to be held in and for the county, riding, or division in which such order shall have been made or conviction taken place within four calendar months next after the cause of complaint shall have arisen, or if such sessions shall be held before the expiration of one calendar month next after such cause of complaint, then such appeal shall be made to the next following sessions . . .

[Sect. 104. *Limitation of actions:* Repealed and replaced by the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61).]

Rules, &c., to be removable by *certiorari* to Court of King's Bench only.

Rules, &c., so removed to continue in force until declared illegal.

CV. No rule, order, or regulation of the said commissioners or assistant commissioners, or any of them, shall be removed or removable by writ of *certiorari* into any court of record, except His Majesty's Court of King's Bench at Westminster; and every rule, order, or regulation which shall be removed by writ of *certiorari* into the said Court of King's Bench shall nevertheless, unless and until the same shall be declared illegal by that court, continue in full force and virtue, and be obeyed, performed, and enforced, in such and the same manner, and by such and the same ways and means, as if the same had not been so removed.

Sect. 105.

Note.

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 13, no writ of *certiorari* shall be granted to remove into the High Court of Justice any order, rule, or regulation of the Local Government Board made under the Poor Law Amendment Acts unless such *certiorari* be moved or applied for within twelve months next after the day when the copy of such order, &c., shall be sent in the manner required by the several statutes in that behalf. In the case of a general order the limit of time will be twelve months from its publication in the *Gazette* (see 35 & 36 Vict. c. 79, s. 48, re-enacted in the Public Health Act, 1875 (38 & 39 Vict. c. 55, Sched. V., Part. III.).

The validity of the orders of the Local Government Board under the Poor Law Amendment Acts cannot in general be disputed otherwise than by *certiorari*, and until set aside by the court have all the force of law (*Reg.* v. *Oldham Union*, 10 Q. B. 700; 16 L. J. M. C. 110; 11 Jur. 487; *Reg.* v. *St. Andrew, Holborn*, 10 A. & E. 739; *Reg.* v. *Bangor*, 10 Q. B. 91; 16 L. J. M. C. 59; 11 J. P. 160; *Newbold* v. *Coltman*, 6 Exch. 189; 20 L. J. M. C. 149; 15 J. P. 372; *Reg.* v. *Greene*, 17 Q. B. 793; 21 L. J. M. C. 137); objection cannot, therefore, be taken to their validity on a return to a *mandamus* (*Reg.* v. *St. Luke, Middlesex*, 2 Lumley's P. L. C. 11).

If, however, there is a manifest want of jurisdiction in the matter of the order, *semble* that it would not be enforceable (*Reg.* v. *Bristol*, 18 L. J. M. C. 184; 13 Jur. 809).

An order may be quashed in part on *certiorari* if part only is bad and the parts are sufficiently divisible (*Reg.* v. *St. James', Westminster*, 17 Q. B. 474); or if it is a general order it may be quashed in respect of some only of the unions to which it is addressed (*Brushfield* v. *Baynton*, 33 L. T. 145).

Sect. 106.

Notice to be given to commissioners of application for writ of *certiorari*, &c.

CVI. No application shall be made for any writ of *certiorari* for the removal of any such rule, order, or regulation, except to the judges when sitting in the said court, nor unless notice in writing shall have been left at the office of the said commissioners at least ten days previous to such application being made, and in which notice shall be set forth the name and description of the party by or on behalf of whom and the day on which it is intended to make such application, together with a statement of the grounds thereof; and thereupon it shall be lawful for the said commissioners to show cause in the first instance against such application, and the court may, if it shall so think fit, forthwith proceed to hear and determine the same upon the grounds set forth in such notice.

Commissioners may show cause.

Recognizances to be entered into by party applying for writ.

CVII. Previous to any writ of *certiorari* being issued the party or parties applying for the same shall enter into a recognizance, with sufficient sureties, before one of His Majesty's justices of the Court of King's Bench, or before a justice of the peace of the county or place in which such person shall reside, in the sum of fifty pounds, with condition to prosecute the same, at his or their costs and charges, with effect, without any wilful or affected delay, and in default thereof, or in the event of such rule, order, or regulation being deemed legal, to pay the said commissioners their full costs, charges, and expenses, to be taxed according to the course of the said Court of King's Bench; and if the said rule, order, or regulation, so removed by the said writ of *certiorari* into the said Court of King's Bench, shall be declared legal by the said court, the commissioners entitled to such costs, within ten days after demand made of the person or persons who ought to pay the said costs, upon oath made of the making such demand and refusal of payment thereof, may recover the same in the same manner as any penalties and forfeitures are recoverable under this Act.

If rule declared legal, commissioners may recover costs.

If rules are quashed, the same to be notified to parishes to which such rules have been directed.

CVIII. If upon the hearing of the application the court shall order a writ of *certiorari* to issue for bringing up any such rule, order, or regulation, and the same, being brought into court, shall be quashed as illegal, the said commissioners shall forthwith notify the judgment of the court to all unions, parishes, or places to which such rule, order, or regulation shall have been directed, and the same shall from the time of receiving such notice respectively be deemed and taken to be

---

Sect. 106.

Note.

See note to sect. 105, *supra*, for limitation of time for applying for *certiorari*.

Where the Board show cause in the first instance against an application for a *certiorari*, and succeed, the court will grant them costs if proper ground appears for it, though the general rule of practice is that a party showing cause in the first instance shall not have costs (*Reg.* v. *Poor Law Commissioners*, 9 Q. B. 291; 11 Jur. 99).

Sect. 108.

Proviso for existing contracts.

No person to be answerable for acts done under such rules until receipt of notice.

null and void to all intents and purposes whatsoever: Provided that such judgment shall not have the effect of annulling any contracts made in pursuance or upon the authority of any such rule, order, or regulation, which at the receipt of such notice respectively shall have been executed by either of the contracting parties: Provided also, that no person shall be liable to be prosecuted, either by indictment or by civil action, for or in respect of any act done by him before the receipt of such notice, under the authority and in pursuance of such rule, order, or regulation.

Interpretation of terms: "auditor":

CIX. In the construction of this Act the word "auditor" shall be construed to mean and include every person, other than justices of the peace acting in virtue of their office, appointed or empowered to audit, control, examine, allow, or disallow the accounts of any guardian, overseer, or vestryman relating to the receipt or expenditure of the poor rate; the

---

Sect. 109.

Note.

"General rule." For meaning of these words see Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), s. 15.

"Officer" apparently includes a Nonconformist minister appointed to attend to the religious wants of the workhouse inmates (*Reg.* v. *Haslehurst*, 13 Q. B. D. 253; 53 L. J. M. C. 127; 51 L. T. 95).

"Treasurer." If an order for payment of the guaadians is altered by the forgery of some person and the treasurer is led to pay such order by the negligence of the guardians or their clerk, and has not been himself guilty of negligence, the loss will fall upon the guardians and not upon the treasurer. But the treasurer is not by reason of his office a banker, and is not therefore entitled to the protection of sect. 60 of the Bills of Exchange Act, 1882, in the event of his paying an order upon a forged indorsement. Where, however, the treasurer was the manager of a bank, and was so appointed in order that the guardians might have the benefit of a banking account, it was held that he thereby became entitled to the protection of that section as a "banker," and was not liable to make good losses incurred through paying orders of the guardians upon forged indorsements (*Halifax Union* v. *Wheelwright*, L. R. 10 Ex. 183; 44 L. J. Ex. 121; 32 L. T. (N. S.) 802; 23 W. R. 704; 39 J. P. 823).

Where an honorary treasurer to a board of guardians keeps an account by their order at a particular bank, on which account the board receives interest, he is not liable to make good to the board a sum lost through the failure of the bank, whether the banking account is considered to be the guardians' or his own, nor is his liability extended by his having given a bond "to pay the balance due from him" and "for the due and faithful performance of his duties." His position is similar to that of a receiver or trustee, and he is not responsible for a loss incurred without default on his part through the necessary employment of a mercantile agent (*Colchester Union* v. *May*, 68 L. T. 564; 57 J. P. 265).

For meanings of "board of guardians" and "poor law union" in Acts passed after January 1st, 1890, and of "parish" in Acts passed after 1866, see the Interpretation Act, 1889 (52 & 53 Vict. c. 63), ss. 16, 5.

Sect. 109.

words "general rule" shall be construed to mean any rule relating to the management of the poor or to the execution of this Act which shall at the time of issuing the same be addressed by the said commissioners to more than one union, or to more parishes or places than one not forming a union or not to be formed into or added to a union, under or by virtue of such rule; the word "guardian" shall be construed to mean and include any visitor, governor, director, manager, acting guardian, vestryman, or other officer in a parish or union, appointed or entitled to act as a manager of the poor and in the distribution or ordering of the relief to the poor from the poor rate under any general or local Act of Parliament; the words "justice or justices of the peace" shall be construed to include justices of the peace of any county, division of a county, riding, borough, liberty, division of a liberty, precinct, county of a city, county of a town, cinque port, or town corporate, unless where otherwise provided by this Act; the word "oath" shall be construed to include the affirmation of a Quaker, Separatist, or Moravian; the words "orders and regulations" shall be construed to mean and include any rule, order, regulation, or bye-law relating to the management or relief of the poor, or the execution of this Act, which at the time of issuing the same shall be addressed, directed, or applied to any one parish or union, or to any number of parishes which have been or by virtue of any order shall be constituted a union or added to a union; the word "officer" shall be construed to extend to any clergyman, schoolmaster, person duly licensed to practice as a medical man, vestry clerk, treasurer, collector, assistant overseer, governor, master or mistress of a workhouse, or any other person who shall be employed in any parish or union in carrying this Act or the laws for the relief of the poor into execution, and whether performing one or more of the above-mentioned functions; the word "overseer" shall be construed to mean and include overseers of the poor, churchwardens, so far as they are authorized or required by law to act in the management or relief of the poor or in the collection or distribution of the poor rate, assistant overseer, or any other subordinate officer, whether paid or unpaid, in any parish or union, who shall be employed therein in carrying this Act or the laws for the relief of the poor into execution; the word "owner" shall be construed to include any person for the time being in the actual occupation of any property rateable to the relief of the poor and not let to him at rack-rent, or any person receiving the rack-rent of any such property either on his own account or as mortgagee or other incumbrancer in possession; and the words "rack-rent" shall be construed to mean any rent which shall not be less than two-thirds of the full improved net annual value of any property; the word "parish" shall be construed to include any parish, city, borough, town, township, liberty, precinct, vill, village, hamlet, tithing, chapelry, or any other place, or division

"general rule";

"guardian";

"justice or justices of the peace";

"oath";

"orders and regulations";

"officer";

"overseer";

"owner";

"rack-rent";

"parish";

Sect. 109.

"person";

"poor";

"poor law," "laws for the relief of the poor";

"poor rate";

"general quarter sessions";

"union";

22 Geo. 3, c. 83.

"united workhouse";

"vestry";

"workhouse."

Number and gender.

or district of a place, maintaining its own poor, whether parochial or extra-parochial; the word "person" shall be construed to include any body politic, corporate, or collegiate, aggregate or sole, as well as any individual; the word "poor" shall be construed to include any pauper or poor or indigent person applying for or receiving relief from the poor rate in England or Wales, or chargeable thereto; the words "poor law, or "laws for the relief of the poor," shall be construed to include every Act of Parliament for the time being in force for the relief or management of the poor, or relating to the execution of the same or the administration of such relief; the words "poor rate" shall be construed to include any rate, rate in aid, mulct, cess, assessment, collection, levy, ley, subscription, or contribution raised, assessed, imposed, levied, collected, or disbursed for the relief of the poor in any parish or union; the words "general quarter sessions" shall extend to and be construed to include general or quarter sessions, or adjournment thereof, for any county, division of a county, riding, borough, liberty, division of a liberty, precinct, county of a city, county of a town, cinque port, or town corporate, unless where otherwise provided by this Act; the word "union" shall be construed to include any number of parishes united for any purpose whatever under the provisions of this Act, or incorporated under the said Act made and passed in the twenty-second year of His late Majesty King George the Third, intituled "An Act for the better Relief and Employment of the Poor," or incorporated for the relief or maintenance of the poor under any local Act; the words "united workhouse" shall be construed to mean and include any workhouse of a union; the word "vestry" shall be construed to mean any open, customary, or select vestry, or any meeting of inhabitants convened by any notice such as would have been required for the assembling of a meeting in vestry, at which meeting any business relating to the poor or the poor rate shall be transacted or taken into consideration, so far as such business is concerned; the word "workhouse" shall be construed to include any house in which the poor of any parish or union shall be lodged and maintained, or any house or building purchased, erected, hired, or used at the expense of the poor rate, by any parish, vestry, guardian, or overseer, for the reception, employment, classification, or relief of any poor person therein at the expense of such parish; and wherever in this Act, in describing any person or party, matter or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and shall be applied to several persons or parties as well as one person or party, and females and well as males, and several matters or things as well as one matter or thing, respectively, unless there be something in the subject or context repugnant to such construction.

[Sect. 110. *Act may be amended:* Repealed by the S. L. R. Act, 1874.]

UNION AND PARISH PROPERTY ACT, 1835.

5 & 6 WILL. IV., CHAP. 69.

An Act to facilitate the Conveyance of Workhouses and other Property of Parishes and of Incorporations or Unions of Parishes in England and Wales.*

[9th September, 1835.]

[Preamble recited that there were certain legal difficulties attending the sale, &c., of workhouses and other property belonging to parishes in corporations and unions which it was desirable to remove.]

Corporations and persons under disability may convey lands, &c., for the purposes of a workhouse, &c.

[I.] It shall be lawful for the Commissioners of Woods, by and with the consent in writing of the Treasury, and for His Majesty, by any grant signed by the Chancellor of the Duchy of Lancaster, and for the Duke of Cornwall, by any grant signed by the Chancellor of that duchy, to grant, and for the guardians and overseers of the poor of any parish or union of parishes, under the direction and with the approbation of the Poor Law Commissioners for England and Wales (to be testified by order under their hands and seal), and for any lay or ecclesiastical corporation aggregate or sole, and for any feoffees or trustees to charitable or other uses, and for any person beneficially seised or entitled in possession as tenant in fee simple, or in fee tail, general or special, or for his own life or for years determinable on his own life (such estate for life or years not being subject to any rent), or for any term of years in gross whereof not less than four hundred shall be unexpired, and subject to

* Throughout this Act for "Poor Law Commissioners," now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 1.

Note.

By the Union and Parish Property Act, 1837 (7 Will. 4 & 1 Vict. c. 50), the provisions of this Act are declared to apply to and comprise lands, &c., of copyhold or customary tenure as well as lands, &c., of freehold tenure.

By the Parish Property and Parish Debts Act, 1842 (5 & 6 Vict. c. 18), s. 1, sales, &c., under this Act of land, &c., of a parish or union not formed by Poor Law Commissioners to guardians of unions formed by them are declared valid.

By the Workhouse Sites Act, 1857 (20 & 21 Vict. c. 13), provision is made for the acquisition of land, &c., by guardians or managers of a school district when the land, &c., belongs to an ecclesiastical corporation sole of unsound mind.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6, (1), (d), the powers exerciseable with the approval of the Local Government Board by the poor law union comprising a rural

Sect. 1.

no equity of redemption or rent, except a nominal rent, and for any married woman entitled or interested as aforesaid to her separate use, and for the guardian, trustee, husband, or committee of any person so seised or entitled who shall be an infant, married woman (not separately entitled), idiot, lunatic, or under any other disability, to dispose of, by way of absolute

---

Sect. 1.

Note.

parish in respect of the sale, exchange, or letting of any parish property are transferred to the parish council of such parish.

A conveyance of land to the overseers of a parish in order to provide a poorhouse for the poor of the parish was held not to be void under the Mortmain Act, 1736 (9 Geo. 2, c. 36) (*Burnaby* v. *Barsby*, 4 H. & N. 690; 28 L. J. Ex. 326; 7 W. R. 693).

The above case was, however, questioned in a case where the facts were as follows: By a lease dated in 1747, after reciting that the inhabitants of G. had resolved to build a workhouse for the better reception and employment of the poor of the parish, and had applied to the lessor for a lease of the land demised, and that the lessor, "in order to encourage so good a work," had consented to grant a lease, a piece of land was demised for a term of 150 years, to commence from a day fifteen days later than the date of the lease, at the yearly rent of 1*s.*, to several persons, one of whom was the vicar of G., in trust, that the lessees might build a workhouse upon the land "for the better reception and employment and for the lodging and entertainment only of all the poor people of the parish of G. for the time being during the said term, in such manner as they or the major part of the town shall think fit, at the proper costs and charges of the inhabitants of the said parish of G., or otherwise, and not to be let, mortgaged for money, or assigned to any other use, intent, or purpose whatsoever;" and it was agreed that if the inhabitants should discontinue the prescribed use of the building so to be erected, and should be willing to deliver it to the landlord, it should be lawful for them to do so, he paying to the churchwardens or overseers of the parish the then value of the building. The deed was not enrolled under the Mortmain Act, 1736 (9 Geo. 2, c. 36). A workhouse was duly erected on the demised land pursuant to the lease. In 1862 the workhouse, being no longer required, was pulled down, and no rent having been paid under the lease since 1776 the site was conveyed to a purchaser in fee under this Act. An action having been brought by a person claiming to be the reversioner, against persons as alleged assigns of the lease, claiming under the purchase of 1862 to recover the arrears of rent: *held* that the lease was a lease for "charitable uses," that it failed to comply with the requirements of the Mortmain Act in that, besides non-enrolment, it did not take effect in possession, and contained reservations in favour of the grantor in the shape of rent and something in the nature of a right of pre-emption, that these defects were not cured by sect. 73 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), that Act curing only one defect, namely, want of enrolment, and that the lease was accordingly void *ab initio*. *Semble*, land acquired by parish officers to enable them to perform their statutory obligations, as, for instance, by providing a workhouse, is land acquired for a "charitable use" (*Webster* v. *Southey*, 36 Ch. D. 9; 56 L. J. Ch. 785; 56 L. T. 879; 35 W. R. 622; 52 J. P. 36).

Sect. 1.

sale, or in exchange for any messuages, lands, or other hereditaments, any lands or buildings for the purpose of the same being used as or converted into a workhouse, or of being used as the site of a workhouse, or of being occupied with a workhouse, or for any other purpose relating to the relief of the poor which the said Poor Law Commissioners may approve of, with the rights and appurtenances, and to convey the same and the fee simple and inheritance thereof unto the guardians or overseers of any union or parish and their successors, or in such other manner as the said Poor Law Commissioners may direct, and to accept from and give to such guardians or overseers any monies by way of equality of exchange.

Payment into Bank of England and investment of purchase-money to the same uses as the lands sold were subject to, &c.

II. . . . all sums of money which shall be agreed to be paid to any corporation, or to any trustee, guardian, or committee for or on behalf of any infant, ward, lunatic, idiot, married woman, or other person under disability, or to any person whose lands shall be limited in settlement, for the purchase or exchange of hereditaments as aforesaid, shall, in case the same shall exceed the sum of fifty pounds, and there shall be no person capable of giving a sufficient discharge for the same, be paid by the said guardians and overseers into the Bank of England in the name and with the privity of the Accountant-General of the Court of Exchequer, to be placed in his account to the credit of the party who shall be so interested in the said hereditaments describing them, subject to the order of the said Court of Exchequer; which said court, on the petition of or motion on behalf of any corporation or person making claim to any such money, is hereby empowered to order summarily the investment of such money in the purchase of real estates, to be settled to the same uses and upon the same trusts as the lands so sold were previously subject to, or in the public funds, and the distribution of the rents and dividends thereof respectively, according to the respective interests of the claimants thereof, and to make such other order in the premises as to the court shall seem reasonable; and the cashier of the Bank of England, who shall receive such money, shall give a receipt to the party paying the same, specifying for what the same is received, which receipt shall be to all intents and purposes a sufficient discharge; and upon such receipt being given it shall be lawful for the said Poor Law Commissioners, by order under their hands and seals, to direct that the said hereditaments so purchased by such guardians or overseers shall be appropriated for the purposes

---

Sect. 2.

Note.

Where guardians purchase property and pay the purchase-money into court under this section, and the vendor petitions for the payment out to him or her of such money, the costs of the petition are within the Act, which the guardians may pay or be ordered to pay, but the costs of purchasing other land with the money when paid out to the vendor do not fall within the Act, and cannot be paid by the guardians (*Ex p. Byron, Lady*, 21 L. T. 288).

Sect. 2.

of this Act; and in case of doubts or questions of title to any money paid into the Bank of England by virtue of this Act, or the securities on which the same may be invested, or the dividends or interest thereof, the corporation or person who shall have been in the possession of such hereditaments, interests, or incumbrances at the time of such purchase, and persons claiming under them, shall be deemed and taken to be lawfully entitled to such hereditaments, interests, or incumbrances, until the contrary shall be shown to the satisfaction of the said Court of Exchequer; and the securities and principal and interest monies shall be applied and disposed of accordingly; and in case of such purchase, payment into the Bank of England, and application to the Court of Exchequer as aforesaid, it shall be lawful for the said court to order the expenses attending such purchase, payment, or application, or any part thereof, to be paid by such guardians or overseers, who shall accordingly pay the same as and when the said court shall direct; and the money so paid shall be a charge on the poor rates of such parish or such union, as the case may be.

Court of Exchequer may order payment of expenses by guardians, &c.

Overseers and guardians of the poor may sell, purchase,

III. . . . it shall be lawful for the guardians of any parish or union, and for the overseers of any parish not under the management of a board of guardians, and for the guardians or

---

Sect. 3.

This section is explained in sect. 2 of the Parish Property and Debts Act, 1842 (5 & 6 Vict. c. 18).

Note.

The provisions of this section are extended to cases of dissolved boards of guardians for a parish by the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 17, but such extension does not apply to the metropolis (see Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), ss. 5, 24).

By the Dissolved Boards of Management and Guardians Act, 1870 (33 & 34 Vict. c. 2), s. 12, the property of dissolved boards of guardians of a parish, district, or union is vested in the last acting managers or guardians of such parish, &c., until sold or disposed of under this section.

Powers similar to those conferred upon guardians by this section are conferred upon boards of managers of school districts by the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 17.

The first proviso to this section, which relates to sect. 40 of 4 & 5 Will. 4, c. 76, is in effect repealed so far as relates to guardians of separate parishes by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 8, which provides that "no consent other than that of the Local Government Board shall be required to the sale or exchange or letting by the board of guardians of any separate parish of any workhouses, tenements, buildings, or land belonging to such parish."

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (d), in the case of a rural parish, "the powers exerciseable with the approval of the Local Government Board by the board of guardians for the poor-law union comprising the parish in respect of the sale, exchange, or letting of any parish property,"

Sect. 3.

and dispose of workhouses, &c.

trustees, guardian or trustee of any dissolved union, or the person or persons who were the guardians or trustees, guardian or trustee of any dissolved union at the time of its dissolution, or a majority of such guardians, trustees, or persons, if more than one, with the approbation and subject to the rules, orders, and regulations of the Poor Law Commissioners, to sell, exchange, let, or otherwise to dispose of any workhouses, tenements, buildings, land, effects, or other property belonging to any such parish or union, or vested in trustees or feoffees in trust for such parish or union, for the parishioners, ratepayers, or inhabitants thereof, or which belong or did belong to any dissolved union, and every and any part of such property, and to convey, assign, or transfer the same accordingly to the purchasers or parties exchanging, as they shall direct; and in case of a sale to apply the produce arising therefrom (after deducting the reasonable expenses thereof) towards the purchase or building of any workhouse, or as or in part of the proportion of such parish or union towards the expense of any workhouse erected, purchased, or provided on behalf of such parish or union, or as a loan to the board of guardians of such union, upon the security of the rates, for the purpose of erecting a workhouse, or in liquidation of any debt contracted by such parish or union or dissolved union, or in such other manner for the permanent advantage of such parish or union or dissolved union as the said Poor Law Commissioners may approve; and in case of an exchange, the hereditaments to be taken in exchange shall be conveyed to the guardians of such parish or union, or the overseers of such parish, upon the same trusts, and the rents and profits thereof shall be applied to the same purposes, as the hereditaments given in exchange were held, and the rents and profits thereof would have been applicable under the provisions of the law or of this Act, if the same hereditaments had not been exchanged; and it shall be lawful for the said Poor Law Commissioners to direct the mode and proportions on parishes in which any money required for the purchase of any such property shall be raised, paid, and secured, and also to direct the mode in which the persons by whom, and the objects relating to the management of the poor to which the rents, profits,

---

Sect. 3.

Note.

are vested in the parish council; and by sect. 52 (1) of the same Act "any power which may be exercised and any consent which may be given by the owners and ratepayers of a parish or by the majority of them, under any of the Acts relating to the relief of the poor . . . so far as respects the dealing with parish property or the spending of money . . . may, in the case of a rural parish, be exercised or given by the parish meeting of the parish."

The legal estate in parish property was not divested out of the churchwardens and overseers of the parish either by 4 & 5 Will. 4, c. 76, s. 21, or by this section, but a power to sell is only thereby given to the guardians (*Doe* d. *Norton* v. *Webster*, 12 A. & E. 442; 4 P. & D. 270; 9 L. J. Q. B. 373; 4 Jur. 1010; *Worge* v. *Rolfe*, 11 L. J. M. C. 125).

Sect. 3.

beneficial occupation, or income of such property shall be applied, assigned, or distributed; and wheresoever the workhouse or workhouses of any parish in any union may have become or shall hereafter become convertible to the common use of such union, it shall be lawful for the said Poor Law Commissioners to direct such an annual sum, in the nature of rent or other compensation, to be paid to such parish out of the common fund of the union, and to vary the amount of such annual sum or compensation from time to time, as they the said Poor Law Commissioners shall see fit: Provided always, that no such sale or exchange or letting of any workhouses, tenements, buildings, or land of any parish shall take place except with the consent of a majority of the ratepayers of such parish, and of the owners of property therein, entitled to vote under and by virtue of the Act passed in the fourth and fifth years of the reign of His present Majesty, intituled "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales," assembled at a meeting to be duly convened and held for the purpose, after public notice of the time and place and purpose of holding such meeting shall have been given in like manner as notices of vestry meetings are published and given, such majority to be ascertained in manner provided by the said Act: Provided also, that every sale and exchange or lease of any such workhouse, tenements, buildings, land, or other property which may have been made before the passing of this Act, with the consent or approbation in writing of the said Poor Law Commissioners, shall be as valid and effectual as if the same had been directed by their order under the authority of this Act; and that any monies or rents which have become or shall become payable in respect of any such sale, exchange, or lease, and have not been applied, shall be applied in the same manner as such monies or rents would have been applicable, if such sale or exchange or lease had been made under this Act.

4 & 5 Will. 4, c. 76.

IV. *All the powers and authorities in and by an Act passed in the twenty-second year of the reign of King George the Third, intituled "An Act for the better Relief and Employment of the Poor," given to guardians of the poor for or relating to the inclosing of*

Sect. 4.

Note.

The words in italics are repealed by the S. L. R. Act (No. 2), 1890. The provisions referred to are contained in sect. 27 of 22 Geo. 3, c. 83, generally known as Gilbert's Act. The provisions of the Act became obsolete when all the incorporations of guardians of the poor created under the Act were dissolved, and it was consequently repealed by the S. L. R. Act, 1871.

Whether the powers transferred by this section from overseers to boards of guardians to be exercised by the latter under the control of the Poor Law Commissioners are in rural parishes transferred to the parish councils by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (d), *quære*. For the nature and extent of the powers herein referred to, see the Editor's "Law of Allotments," 2nd ed. p. 23.

any part or portion of waste or common land as therein mentioned; all powers and authorities in and by an Act passed in the fifty-ninth year of the same reign, intituled "An Act to amend the Laws for the Relief of the Poor," given to churchwardens and overseers of the poor for taking land or ground into their hands, and for purchasing, hiring, and taking on lease any land; and all the powers and authorities contained in an Act passed in the first and second years of the reign of His present Majesty, intituled "An Act to amend an Act of the fifty-ninth year of His Majesty King George the Third, for the Relief and Employment of the Poor"; and in a certain other Act passed in the first and second years of the reign of His present Majesty, intituled "An Act to enable churchwardens and overseers to inclose land belonging to the Crown for the benefit of poor persons residing in the parish in which such Crown land shall be situate"; and in a certain other Act passed in the second year of the reign of His present Majesty, intituled "An Act to authorize (in parishes inclosed under any Act of Parliament) the letting of the poor allotments in small portions to industrious cottagers"; shall in future be exercised (under the control and subject to the rules, orders, and regulations of the Poor Law Commissioners) by the overseers of the poor in any parish not under the management of a board of guardians, and by the guardians of the poor of any union or parish formed or established by virtue of any statute or local Act; and all the aforesaid powers and authorities relating to the inclosing, purchasing, hiring, or taking any waste, common, or other land, for the purpose or purposes in the said Acts mentioned, shall extend and apply to and may be so exercised as aforesaid by the said overseers and guardians for the purpose of being used as the site of a workhouse, or of being occupied with a workhouse, or for any other of the purposes of the said recited Act passed in the fourth and fifth years of the reign of His present Majesty.

Sect. 4.

Certain powers given by 59 Geo. 3, c. 12;

1 & 2 Will. 4, c. 42;

1 & 2 Will. 4, c. 59;

and 2 & 3 Will. 4, c. 42;

shall be exercised by overseers and guardians, &c.

V. The powers and authorities given by the said Act of the fifty-ninth year of King George the Third, and by the said Act of the second year of the present reign, to justices of the peace to cause possession of parish houses and lands and portions of land to be delivered to the churchwardens and overseers of the poor, and any other auxiliary powers or provisions in the said Acts or other Acts contained in relation thereto, shall extend to and shall be exercised by such justices in respect of any houses and lands and portions of land which are or may be vested in or under the management or control of the guardians of the poor of any union or parish, in the same manner as if the name of those officers had been inserted in the said Acts instead of the names of the churchwardens and overseers of the poor.

Powers given to justices to deliver possession of parish houses, &c., to churchwardens and overseers, extended to property of unions, &c.

The powers and authorities referred to in this section are contained in 59 Geo. 3, c. 12, s. 25, and 1 & 2 Will. 4, c. 42, ss. 5, 6.

Sect. 5. Note.

Sect. 6.

Form of conveyance, &c., under this Act.

VI. Every conveyance, exchange, security, or assignment of security, under the authority of this Act, may be made according to the forms set forth in the schedule annexed, or in such other forms as the said Poor Law Commissioners shall direct, or as near thereto as the number of parties, the nature of the interests, and the circumstances of the case will admit, and shall, when executed by the conveying parties, be valid and effectual in the law, without livery of seisin being made, or any bargain and sale to vest possession being executed. . . .

Guardians to be incorporated, &c.

VII. The guardians of the poor of every union already formed or which hereafter shall be formed by virtue of the aforesaid Act passed in the fourth and fifth years of the reign of His present Majesty, and of every parish placed under the control of a board of guardians by virtue of the said Act, shall respectively from the day of their first meeting as a board become or be deemed to have become, and they and their successors in office shall for ever continue to be, for all the purposes of this Act, a corporation, by the name of the guardians of the poor of the union (or of the parish of) in the county of ; and as such corporation the said guardians are hereby empowered to accept, take, and hold, for the benefit of such union or parish, any buildings, lands, or hereditaments, goods, effects, or other property, and may use a common seal; and they are further empowered by that name to bring actions, to prefer indictments, and to sue and be sued, and to take or resist all other proceedings for or in relation to any such property, or any bonds, contracts, securities, or instruments given or to be given to them in virtue of their office; and in every such action and indictment relating to any such property it shall be sufficient to lay or state the property to be that of the guardians of the union, or of the parish of ; and in case of any addition to or separation of any parishes from any such union, under the authority of the said Act passed in the fourth and fifth years of the reign of His present Majesty, the board of guardians for the time being shall (notwithstanding such alteration) have and enjoy the same corporate existence,

---

Sect. 6. Note.

This section is repealed so far as relates to the form of the security by the S. L. R. Act, 1888.

The latter part of this section required the approval of the Poor Law Commissioners to conveyances, &c., and was repealed by the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 14 (3).

Sect. 7. Note.

The Poor Law Amendment Act, 1852 (& 6 Vict. c. 57), s. 16, contains a similar enactment to that in this section.

In an indictment for burglary, the workhouse of a union may be described as the dwelling-house of the guardians of the poor of the union (*Reg.* v. *Frowen*, 4 Cox, C. C. 266).

property, and privileges, as the board of guardians of the original union would have had and enjoyed, had it remained unaltered. Sect. 7.

VIII. All buildings, lands, or hereditaments, goods, effects, or other property, which, before the passing of this Act, may have been conveyed, with the consent or under the directions of the said Poor Law Commissioners, to any persons in trust for and for the use of any union or parishes, shall, without any further act, vest in the guardians thereof as such corporation, in the same manner as if the same respectively had been conveyed to or vested in them under the provisions of this Act. Property heretofore conveyed with the consent of the Poor Law Commissioners shall vest in guardians.

IX. Wherever in this Act, in describing any person or party, matter or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and shall be applied to several persons or parties as well as one person or party, and females as well as males, and several matters or things as well as one matter or thing respectively, unless there be something in the subject or context repugnant to such construction; and the words and expressions "general rule," "guardian," "justice or justices of the peace," "orders and regulations," "overseers," "owners of property," "parish," "person," "poor," "poor rate," "union," "vestry," and "workhouse," shall bear and be construed to have the same signification as the same words and expressions are declared to have in the said Act of the fourth and fifth years of the present reign, for the amendment and better administration of the laws relating to the poor in England and Wales. Interpretation of terms.

[For these definitions see *ante*, pp. 500—502.]

SCHEDULE TO WHICH THIS ACT REFERS.

Form of Conveyance.

THIS deed, made the day of , in the year , by virtue of an Act passed in the fifth and six years of the reign of King William the Fourth, intituled [the title of this Act], witnesseth, that A. B. of in consideration of the sum of paid to him [*or* into the Bank of England] by C. D. of , doth grant and convey [*or* demise or assign, proper words of conveyance to be used,] all, &c. [the property to be aptly described] and all the right, title, and interest of the said A. B. in and to the same and every part thereof, unto and to be holden by the said C. D., his heirs and assigns. In witness whereof the said A. B. and C. D. have hereunto set their hands and seals.

Witness, E. F.

A. B. (L.S.)
C. D. (L.S.)

Schedule.

Form of Exchange.

THIS deed, made the day of , by virtue of an Act passed in the fifth and six years of the reign of King William the Fourth, intituled [the title of the Act], witnesseth, that A. B. of , doth grant and convey unto C. D. of all [the property to be aptly described], in exchange for the hereditaments herein-after conveyed, to the intent that the said hereditaments above conveyed may be held and enjoyed by the said C. D., and the person or persons who for the time being would have been entitled to the hereditaments herein-after conveyed, if this present exchange had not been made, and shall be and become subject to such and the same uses, trusts, powers, conditions, limitations, restrictions, charges, and incumbrances as the same hereditaments herein-after conveyed now are or may or but for this present exchange would have been subject or liable to: And this deed further witnesseth, that, in pursuance of the said Act, the said C. D. doth grant and convey unto the said A. B. all [the property to be aptly described], in lieu of and in exchange for the hereditaments firstly herein-before conveyed, to the intent that the hereditaments lastly herein-before conveyed may be held and enjoyed by the said A. B., and the person or persons who for the time being would have been entitled to the hereditaments firstly herein-before conveyed if this present exchange had not been made, and shall be and become subject to such and the same uses, trusts, powers, conditions, limitations, restrictions, charges, and incumbrances as the same hereditaments now or may be or but for this present exchange would have been subject or liable to. In witness whereof the said A. B. and C. D. have hereunto set their hands and seals.

Witness, E. F. A. B. (L.S.)
C. D. (L.S.)

[*Form of Security* repealed by the S. L. R. Act, 1888.]

Form of Transfer of Security.

THIS deed, made the day of by virtue of the Act passed in the fifth and sixth years of the reign of King William the Fourth, intituled [the title of this Act], witnesseth, that Y. Z. of doth transfer the security [describing it], with all right and title to the principal money thereby secured, and to all the interest now due or hereafter to be due thereon, unto V. W. of , his executors, administrators, and assigns.

Witness E. F. Y. Z.
V. W.

TITHE ACT, 1836.

6 & 7 WILL. IV., CHAP. 71.

An Act for the Commutation of Tithes in England and Wales.*
[13th August, 1836.]

[It has not been thought necessary to print the numerous sections of the Act relating to the making and confirmation of parochial agreements and instruments of apportionment, and other mechanism for the commutation of tithes, many of which are repealed except as to tithes which have not been commuted. Only such sections as have some bearing on poor law matters are included.]

* * * * *

Transcripts of apportionments, &c., to be sent to the registrar of the diocese and to the incumbent and churchwardens.

LXIV. Two copies of every confirmed instrument of apportionment, and of every confirmed agreement for giving land instead of any tithes or rent-charge, shall be made and sealed with the seal of the said commissioners; and one such copy shall be deposited in the registry of the diocese within which the parish is situated, to be there kept among the records of the said registry, and the other copy shall be deposited with the incumbent and church or chapel wardens of the parish for the time being, or such other fit persons as the commissioners shall approve, to be kept by them and their successors in office with the public books, writings, and papers of the parish; and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy on giving reasonable notice to the person having custody of the same, and on payment of two shillings and sixpence for such inspection, and after the rate of threepence for every seventy-two words contained in such copy or extract; and every recital or statement in a map or plan annexed to such confirmed apportionment or agreement for giving land, or any sealed copy thereof, shall be deemed satisfactory evidence of the

Recitals in apportionments, &c., to be evidence.

* So much of this Act and of the Acts amending the same as provides that the land given to any spiritual person in exchange for glebe of any benefice shall be free from incumbrances, and shall not be of copyhold or customary tenure, subject to arbitrary fine or the render of heriots, is repealed by 23 & 24 Vict. c. 93, s. 41.

Sect. 64.

Note.

By the Tithe Act, 1842 (5 & 6 Vict. c. 54), s. 13, guardians are empowered to pay out of the poor rates for the cost of making or providing any map or plan confirmed by the Tithe Commissioners for parochial purposes.

The powers, &c., of the Tithe Commissioners are now vested in the Board of Agriculture, by 45 & 46 Vict. c. 38, s. 48, and 52 & 53 Vict. c. 30.

Sect. 64.

matters therein recited or stated, or of the accuracy of such plan.

* * * * *

Rent-charge to be liable to parochial and county rates.

LXIX. Every rent-charge payable as aforesaid instead of tithes shall be subject to all parliamentary, parochial, and county and other rates, charges, and assessments, in like manner as the tithes commuted for such rent-charge have heretofore been subject.

BIRTHS AND DEATHS REGISTRATION ACT, 1836.

6 & 7 WILL. IV., CHAP. 86.*

An Act for registering Births, Deaths, and Marriages in England. [17th August, 1836.]

[*Preamble recites* 52 *Geo.* 3, *c.* 146, *and* 4 *Geo.* 4, *c.* 76.]

[Sect. 1 : *Repeals so much of the recited Acts as relates to marriages :* Repealed by 37 & 38 Vict. c. 88, s. 54.]

General register office to be provided in London or Westminster, and registrar-general to be appointed.

II. It shall be lawful for His Majesty to provide a proper office in London or Westminster, to be called "The General Register Office," for keeping a register of all births, deaths, and marriages of His Majesty's subjects in England, and to appoint for the said office under the great seal of the United Kingdom a registrar-general of births, deaths, and marriages in England, and from time to time at pleasure to remove the said registrar-general, and appoint some other person in his room.

Treasurer or registrar-general to appoint officers and fix salaries.

III. The Lord Treasurer or Lords Commissioners of His Majesty's Treasury, or any three of them, or the registrar-general, subject to the approval of the said Lords Commissioners, shall appoint from time to time such officers, clerks,

* For "Poor Law Commissioners" throughout this Act, now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect. 69. Note.

Poor rates on tithe rent-charges were formerly, by sect. 70 of this Act, assessed on and recoverable from the occupier of the lands out of which the rent-charge issued. That section is repealed by the S. L. R. Act, 1891; and by the Tithe Act, 1891 (54 & 55 Vict. c. 8), s. 6, such rate is recoverable from the owner of the rent-charge.

A tithe rent-charge is to be assessed to the poor rate, like all other rateable property, according to the sum for which it might reasonably be expected to let from year to year (*St. Asaph* v. *Llanrhaiadr-yn-Mochnant*, [1897] 1 Q. B. 511; 66 L. J. Q. B. 267; 76 L. T. 42; 61 J. P. 213). As to how this value is arrived at see notes to 6 & 7 Will. 4, c. 96, s. 1.

and servants as they shall deem necessary to carry on the business of the general registry office, and at pleasure remove them or any of them; and the said Lord Treasurer or Lords Commissioners shall fix the salary of the registrar-general, . . . and shall fix the salaries of the officers, clerks, and servants, in fit proportion according to the duties they may have to perform. Sect. 3.

[Sect. 4: *Salaries to be paid out of consolidated fund:* Repealed by 37 & 38 Vict. c. 88, s. 54.]

V. One of His Majesty's principal Secretaries of State, or the registrar-general with the approbation of such principal secretary, from time to time may make regulations for the management of the said register office, and for the duties of the registrar-general, clerks, officers, and servants of the said office, and of the registrars, deputy registrars, and superintendent registrars herein-after mentioned, in the execution of this Act, so that they be not contrary to the provisions herein contained; and the regulations so made and approved shall be binding on the said registrar-general, clerks, officers, and servants, and on the registrars, deputy registrars, and superintendent registrars. Regulations as to duties of officers to be framed by or under direction of Secretary of State.

VI. The registrar-general shall send once in every year to one of the principal Secretaries of State a general abstract of the number of births, deaths, and marriages registered during the foregoing year, in such form as the said secretary from time to time shall require; and every such annual general abstract shall be laid before Parliament within one month after receipt thereof or after the meeting of Parliament. Annual abstract of registers to be sent to Secretary of State, and laid before Parliament.

VII. The guardians of every union declared under the provisions of an Act passed in the fifth and sixth years of His present Majesty, intituled "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales," and also of every parish or place in which a board of guardians shall have been established under the provisions of the last-named Act, shall, on or before the Guardians of unions, &c., under 4 & 5 Will. 4, c. 76, shall form districts and appoint registrars and

---

Sect. 7. Note.

The words "fifth and sixth years" are an error for "fourth and fifth years."

This section is amplified by sect. 17 of the Births and Deaths Registration Act, 1837 (7 Will. 4 & 1 Vict. c. 22).

Although the clerk to the guardians was entitled to the first appointment to the office of superintendent registrar after the passing of this Act, upon subsequent vacancies in the office the guardians may appoint any properly qualified person (*Reg.* v. *Acason*, 31 L. J. Q. B. 227; 6 L. T. (N. S.) 535; 26 J. P. 436; 8 Jur. (N. S.) 841).

Sect. 7.

superintendent registrars.

first day of October in this year, if the said board of guardians shall have been established before the passing of this Act, or within three calendar months next after the establishment of the board, if the said board shall not have been established before the passing of this Act, divide the union or the parish or place of which they are the guardians into such and so many districts as they, subject to the approval of the registrar-general, shall think fit; and every such division when made shall be published by the guardians within the union, parish, or place of which they are guardians, in such manner as the said registrar-general shall direct; and every such district shall be called by a distinct name, and shall be a registrar's district; and the guardians shall appoint a person, with such qualifications as the registrar-general may by any general rule declare to be necessary, to be registrar of births and deaths within each district, and in every case of vacancy in the office of registrar shall forthwith fill up the vacancy; and the clerk to the guardians of every such union, parish, or place shall, if he shall think fit to accept such office, and have such qualifications as the registrar-general may by any general rule declare to be necessary, be the superintendent registrar thereof; and in the event of his refusal or disqualification to act in that capacity, the guardians shall appoint a person, with such qualifications as the registrar-general may by any general rule declare to be necessary, to be the superintendent registrar of each union, or of such parish or place, and in every case of vacancy of the office of superintendent registrar shall forthwith fill up the vacancy; and every registrar and superintendent registrar shall hold his office during the pleasure of the registrar-general.

Officers of unions, &c., removed by Poor Law Commissioners, &c., to cease to act under this Act.

VIII. Provided always, that in every case in which the clerk to the guardians of any union, parish, or place, or any other officer of any such union, parish, or place, shall hold any office under this Act, and shall be removed by the Poor Law Commissioners from his office in such union, parish, or place, and in every case in which any registrar or superintendent registrar shall be removed by the registrar-general from his office under this Act, notice of such removal shall be forthwith given by advertisement in some newspaper circulating in the county wherein the district for which such officer may act shall be; and every such person shall thenceforth cease to hold his office under this Act, and shall be incapable of being re-appointed thereto: Provided also, that the appointment of any officer of any such union, parish, or place to any office under this Act shall be subject to the approval of the Poor Law Commissioners, except as herein-before directed with respect to the clerk to guardians of any such union, parish, or place.

Appointments of officers of unions, &c., to act under this Act shall be approved by Poor Law Commissioners.

Register offices to be

IX. The guardians shall provide and uphold, out of the monies coming to their hands or control as such guardians, a

register office, according to a plan to be approved by the registrar-general, for preserving the registers to be deposited therein, as herein-after provided; and the care of the said office and the custody of the registers deposited therein shall be given to the superintendent registrar of the union or parish or place having a board of guardians as aforesaid. Sect. 9. provided in each union, &c.

X. The Poor Law Commissioners for England and Wales shall, as soon as may be after the said first day of October, form all the parishes, townships, and places in England, in or for which a board of guardians shall not have been then established under the provisions of the said Act for the amendment of the laws relating to the poor, into temporary districts, having regard in the formation thereof to the boundaries of parishes and townships . . . ; and the registrar-general shall appoint a sufficient number of fit persons to be superintendent registrars for such temporary districts, subject to being displaced as herein-after provided, and shall appoint the districts which each shall superintend. Superintendent registrars to be appointed for parishes not under the Poor Law Act.

XI. In every case in which a board of guardians shall be established, under the provisions of the said Act for the amendment of the laws relating to the poor, in or for any parish, township, or place forming part of any temporary district in or for which a registrar or superintendent registrar shall have been previously appointed as last aforesaid, and as soon as a registrar or registrars shall have been appointed for the districts into which the guardians shall have divided the union or parish or place of which they are guardians as aforesaid, and the clerk of the guardians of such union, parish, or place shall have accepted the office of superintendent registrar, or the said guardians shall have appointed a superintendent registrar for such districts, in like manner as in the unions formed before the passing of this Act, every such parish or place shall cease to be a part of the temporary district to which it was so annexed by the Poor Law Commissioners, and every registrar, deputy registrar, and superintendent registrar appointed before the election of such board of guardians as aforesaid in or for such parish, township, or place, shall cease to hold their respective offices, so far as relates to such parish, township, or place, unless re-appointed. In case of subsequent unions previous appointments to be vacated.

[Sect. 12: *Deputy registrars to be appointed:* Repealed by 37 & 38 Vict. c. 88, s. 54.]

XIII. The appointments of registrars, deputy registrars, and superintendent registrars, and the duplicates and certified copies of registers herein-after mentioned, shall be exempt from all stamp duties. Appointments, &c., to be exempt from stamp duties.

XIV. The registrar-general shall furnish to every superintendent registrar, for the use of the registrars under his Register boxes to be provided.

Sect. 14.

superintendence, a sufficient number of strong iron boxes to hold the register books to be kept by such registrar; and every such box shall be furnished with a lock and two keys, and no more: and one of such keys shall be kept by the registrar, and the other key shall be kept by the superintendent registrar; and the register books of each district, while in the custody of the registrar and not in use, shall be always kept in the register box, and the register box shall always be left locked.

All books, &c., to be transferred, on removal of registrar, to his successor.

XV. In every case in which any registrar or superintendent registrar shall be removed from or cease to hold the said office, all register boxes, keys, books, documents, and papers in his possession as such registrar or superintendent registrar shall be given as soon as conveniently may be to his successor in office; and if any person shall refuse to give up any such box, key, books, documents, or papers in such case as aforesaid, it shall be lawful for any justice of the peace for the county or other jurisdiction where such person shall be or reside, upon application made for that purpose, to issue a warrant under his hand and seal for bringing such person before any two justices of the peace for the said county or other jurisdiction; and upon such person appearing or not being found, it shall be lawful for such justices to hear and determine the matter in a summary way; and if it shall appear to the justices that any such box, keys, books, documents, or papers are in the custody or power of any such person, and that he has refused or wilfully neglected to deliver the same, the said justices are hereby required to commit such offender to the common gaol or house of correction for the said county or jurisdiction, there to remain without bail until he shall have delivered up the same, or until satisfaction shall have been given in respect thereof to the person in whose custody the same ought to be; and the said justices may grant a warrant to search for such box, keys, books, documents, or papers, as in the case of stolen goods, in any dwelling-house or other premises in which any credible witness shall prove upon oath before them that there is reasonable cause to suspect the same to be; and the same when found shall be delivered to the person in whose custody they ought to be.

[Sect. 16: *Registrar and deputy to dwell in the district:* Repealed by 37 & 38 Vict. c. 88, s. 54.]

Register books to be provided.

XVII. The registrar-general shall cause to be printed on account of the said register office a sufficient number of register books for making entries of all births, deaths, and marriages of His Majesty's subjects in England, according to the forms of schedules (A.) (B.) (C.) to this Act annexed; and the said register books shall be of durable materials, and in them shall be printed upon each side of every leaf the heads of information herein required to be known and registered of births, deaths, and marriages respectively; and every page of each of such books

shall be numbered progressively from the beginning to the end, beginning with number one; and every place of entry shall be also numbered progressively from the beginning to the end of the book, beginning with number one; and every entry shall be divided from the following entry by a printed line. Sect. 17.

XVIII. The registrar-general shall furnish to every superintendent registrar, for the use of the registrars under his superintendence, a sufficient number of register books of births and of register books of deaths, and of forms for certified copies thereof, . . . Registrar-general to furnish register books for use of registrars, &c.

[Sects. 19—28: *Notices of births and deaths to be given to registrar:* Repealed by 37 & 38 Vict. c. 88, s. 54.]

XXIX. Every registrar shall make out an account four times in every year of the number of births and deaths which he shall have registered since the last quarterly account, and the superintendent registrar shall verify and sign the same; and the guardians or overseers of the parish, township, or place in or for which he shall be registrar, on production of the said account so verified and signed, shall pay to the said registrar, out of the monies in their hands or power as such guardians or overseers, such sums as he shall be entitled to receive on the said account according to the following scale; (that is to say,) for the first twenty entries of births and deaths in every year which he shall have registered, whether the same be of births or of deaths indiscriminately, two shillings and sixpence each, and one shilling for every subsequent entry of births or deaths in each year; and in the case of an union the said several sums shall be charged to the account of the parishes in which such births or deaths respectively shall have occurred. Registrars to make out accounts quarterly. Guardians or overseers to pay registrars.

XXX. The registrar-general shall furnish or cause to be furnished to the rector, vicar, or curate of every church and chapel in England wherein marriages may lawfully be solemnized, and also to every person whom the recording clerk of the Society of Friends commonly called Quakers, at their central office in London, shall from time to time certify in writing under his hand to the registrar-general to be a registering officer in England of the said society, and also to every person whom the president for the time being of the London committee of deputies of the British Jews shall from time to time certify in writing under his hand to the registrar-general to be the secretary of a synagogue in England of persons professing the Jewish religion, a sufficient number in duplicate of marriage register books, and forms for certified copies thereof, as hereinafter provided; . . . Marriage register books to be furnished to rectors, &c.

XXXI. Every clergyman of the Church of England, immediately after every office of matrimony solemnized by him, shall Marriage registers to be kept in duplicate.

On an indictment for perjury under this statute for making false statements *after* marriage to the *officiating clergyman* for the purpose Sect. 31. Note.

Sect. 31.

register in duplicate in two of the marriage register books the several particulars relating to that marriage according to the form of the said schedule (C.); and every such registering officer of the Quakers, as soon as conveniently may be after the solemnization of any marriage between two Quakers in the district for which he is registering officer, and every such secretary of a synagogue, immediately after every marriage solemnized between any two persons professing the Jewish religion, of whom the husband shall belong to the synagogue whereof he is secretary, shall register or cause to be registered in duplicate in two of the said marriage register books the several particulars relating to that marriage according to the form of the said schedule (C.): and every such registering officer or secretary, whether he shall or shall not be present at such marriage, shall satisfy himself that the proceedings in relation thereto have been conformable to the usages of the said society, or of the persons professing the Jewish religion, as the case may be; and every such entry as herein-before is mentioned (whether made by such clergyman or by such registering officer or secretary respectively as aforesaid) shall be signed by the clergyman or by the said registering officer or secretary, as the case may be and by the parties married, and by two witnesses, and shall be made in order from the beginning to the end of each book, and the number of the place of entry in each duplicate marriage register book shall be the same.

Certified copies of registers of births and deaths to be sent quarterly, and the register books, when filled, to the superintendent registrar.

XXXII. In the months of April, July, October, and January, on such days as shall from time to time be appointed by the registrar-general, every registrar shall make, and deliver to the superintendent registrar of his district, on durable materials, a true copy, certified by him under his hand according to the form of schedule (D.) to this Act annexed, of all the entries of births and deaths in the register book kept by him since the last certificate . . .; and the superintendent registrar shall verify the same, and, if found to be correct, shall certify the same under his hand to be a true copy; and if there shall have been no birth or death registered since the delivery of the last certificate, the registrar shall certify the fact, and such certificate

---

Sect. 31. Note.

of having such false statements inserted in the marriage register book, it was held that the indictment was supported by proof of such statements having been made *before* marriage to *the clerk* in the absence of the officiating clergyman, and by the clerk then and there inserted in the marriage register book, and *after* marriage having been averred by the prisoner to be correct (in answer to a question put to him by the clergyman); the prisoner's purpose then being to have the said statements, which had already been entered by the clerk, retained in the register book by the clergyman. Also, that the marriage register book need not be shown to be the identical book directed to be furnished by the registrar-general under sect. 30 of this Act (*Reg.* v. *Brown*, [1848] 1 Denison, C. C. R. 291).

shall be delivered to the superintendent registrar as aforesaid, and countersigned by him; and the registrar shall keep safely each of the said register books until it shall be filled, and shall then deliver it to the superintendent registrar, to be kept by him with the records of his office.

Certified copies and duplicates of registers of marriages to be sent to superintendent registrar.

XXXIII. The rector, vicar, or curate of every such church and chapel, and every such registering officer and secretary, shall, in the months of April, July, October, and January respectively, make and deliver to the superintendent registrar of the district in which such church or chapel may be situated, or which may be assigned by the registrar-general to such registering officer or secretary, on durable materials, a true copy certified by him under his hand of all the entries of marriages in the register book kept by him since the last certificate, . . . and, if there shall have been no marriage entered therein since the last certificate, shall certify the fact under his hand, and shall keep the said marriage-register book safely until the same shall be filled; and one copy of every such register book, when filled, shall be delivered to the superintendent registrar of the district in which such church or chapel may be situated, or which shall have been assigned as aforesaid to such registering officer or secretary, and the other copy of every such register book kept by any such rector, vicar, or curate, shall remain in the keeping of such rector, vicar, or curate, and shall be kept by him with the registers of baptisms and burials of the parish or chapelry within which the marriages registered therein shall have been solemnized; and the other copy of every such register book of marriages among the people called Quakers, and among persons professing the Jewish religion respectively, shall remain under the care of the said people or persons respectively, to be kept with their other registers and records, and shall, for the purposes of this Act, be still deemed to be in the keeping of the registering officer or secretary for the time being respectively.

Superintendent registrars to send certified copies of registers to the registrar-general, &c.

XXXIV. Every superintendent registrar shall four times in every year, on such days as shall be therefore named by the registrar-general, send to the registrar-general all the certified copies of the registers of births, deaths and marriages, which he shall have so received during three calendar months next preceding such quarterly days of transmission respectively; and if it shall appear, by interruption of the regular progression of numbers or otherwise, that the copy of any part of any book has not been duly delivered to him, he shall procure, as far as possible, consistently with the provisions of this Act, that the same may be remedied and supplied; and every such superintendent registrar shall be entitled to receive the sum of twopence for every entry in such certified copies; and every superintendent registrar shall make out an account four times in every year of the number of entries in the certified copies

Sect. 34.

sent to him during the last quarter; and the certified copies so sent to the general registry office shall be thereafter kept in the said office in such order and manner as the registrar-general, under the direction of the Secretary of State shall think fit, so that the same may be most readily seen and examined.

Searches may be made, and certificates given by the persons keeping the registers.

XXXV. Every rector, vicar, or curate, and every registrar, registering officer, and secretary, who shall have the keeping for the time being of any register book of births, deaths, or marriages, shall at all reasonable times allow searches to be made of any register book in his keeping, and shall give a copy certified under his hand of any entry or entries in the same, on payment of the fee herein-after mentioned; (that is to say,) for every search extending over a period not more than one year the sum of one shilling, and sixpence additional for every additional year, and the sum of two shillings and sixpence for every single certificate.

[Sect. 36: *Indexes to be made and search allowed:* Repealed by 37 & 38 Vict. c. 88, s. 54.]

Indexes to be kept at general register office, searches allowed, and certified copies given.

XXXVII. The registrar-general shall cause indexes of all the said certified copies of the registers to be made and kept in the general register office; and every person shall be entitled, on payment of the fees herein-after mentioned, to search the said indexes between the hours of ten in the morning and four in the afternoon of every day, except Sundays, Christmas Day, and Good Friday, and to have a certified copy of any entry in the said certified copies of the registers; and for every general search of the said indexes shall be paid the sum of twenty shillings, and for every particular search the sum of one shilling, and for every such certified copy the sum of two shillings and sixpence, and no more, shall be paid to the registrar-general or such other officer as shall be appointed for that purpose on his account.

Certified copies given at general registry office to be sealed: and to be received as evidence.

XXXVIII. The registrar-general shall cause to be made a seal of the said register office, and the registrar-general shall cause to be sealed or stamped therewith all certified copies of entries given in the said office; and all certified copies of entries purporting to be sealed or stamped with the seal of the said register office shall be received as evidence of the birth, death, or marriage to which the same relates, without any further or other proof of such entry; and no certified copy purporting to be given in the said office shall be of any force or effect which is not sealed or stamped as aforesaid.

Fees for searches in the general

XXXIX. Every sum received under the provisions of this Act by or on account of the registrar-general shall be accounted

Sect. 35.

Note.

This section does not authorize the making of any charge for extracts made by the person searching the register (*Steele* v. *Williams*, 8 Exch. 625; 22 L. J. Ex. 225).

for and paid by the registrar-general, at such times as the Treasury from time to time shall direct, into the Bank of England, to the credit of His Majesty's Exchequer, . . .

Sect. 39.

register office to be accounted for to the Exchequer.

XL. It shall be lawful for every clergyman of the Church of England who shall solemnize any marriage in England, and for every registering officer of the Quakers, and every secretary of a synagogue, to ask of the parties married the several particulars herein required to be registered touching such marriage.

Clergymen, &c., may ask parties married the particulars required to be registered.

XLI. Every person who shall wilfully make or cause to be made, for the purpose of being inserted in any register of . . . marriage, any false statement touching any of the particulars herein required to be known and registered, shall be subject to the same pains and penalties as if he were guilty of perjury.

Penalty for wilfully giving false information.

XLII. Every person who shall refuse or without reasonable cause omit to register any marriage solemnized by him, or which he ought to register, and every person having the custody of any register book, or certified copy thereof, or of any part thereof, who shall carelessly lose or injure the same, or carelessly allow the same to be injured whilst in his keeping, shall forfeit a sum not exceeding fifty pounds for every such offence.

Penalty for not duly registering marriages, or for losing or injuring the registers.

[Rep. as to registrars or registers of births and deaths, by 37 & 38 Vict. c. 88, s. 54.]

[Sect. 43: *Penalty for destroying or falsifying register books:* Repealed by 24 & 25 Vict. c. 95, s. 1, but see terms of repeal.]

XLIV. Provided always, that no person charged with the duty of registering any . . . marriage, who shall discover any error to have been committed in the form or substance of any such entry, shall be therefore liable to any of the penalties aforesaid, if within one calendar month next after the discovery of such error, in the presence of . . . the parties married, . . . or, in case of the death or absence of the respective parties aforesaid, then in the presence of the superintendent registrar and of two other credible witnesses who shall respectively attest the same, he shall correct the erroneous entry, according to the truth of the case, by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made: Provided also, that in the case of a marriage register he shall make the like marginal entry, attested in like manner in the duplicate marriage register book

Accidental errors may be corrected.

To support an indictment under this section it is essential that the false statement should have been made wilfully and intentionally and not by mistake only (*Reg.* v. *Dunboyne, Lord*, 3 C. & K. 1).

Sect. 41. Note.

Sect. 44.

to be made by him as aforesaid, and in every case shall make the like alteration in the certified copy of the register book to be made by him as aforesaid, or, in case such certified copy shall have been already made, provided he shall make and deliver in like manner a separate certified copy of the original erroneous entry, and of the marginal correction therein made.

[Sect. 45: *Recovery of penalties:* Repealed by 37 & 38 Vict. c. 88, s. 54.]

Appeal.

XLVI. In all cases where the sum adjudged to be paid on any such summary conviction shall exceed five pounds, any person convicted may appeal to the next court of quarter sessions.

Conviction not to be quashed for want of form, &c.

XLVII. No such conviction or adjudication made on appeal therefrom shall be quashed for want of form, or be removed by *certiorari* or otherwise into any of His Majesty's superior Courts of Record.

[Sect. 48: *Postage:* Repealed by the S. L. R. Act, 1874.]

Registers of baptisms and burials to be kept as heretofore, &c.

XLIX. Provided always, that nothing herein contained shall affect the registration of baptisms or burials as now by law established, or the right of any officiating minister to receive the fees now usually paid for the performance or registration of any baptism, burial, or marriage.

[Sect. 50: *Registrar-general to furnish notices to guardians of unions, &c., specifying acts to be done by parties registering:* Repealed by 37 & 38 Vict. c. 88, s. 54.]

SCHEDULES TO WHICH THIS ACT REFERS.—SCHEDULE (A.).

1836.—BIRTHS in the *District* of *Marylebone, North*, in the County of *Middlesex*.

No.	When Born.	Name, if any.	Sex.	Name and Surname of Father.	Name and Maiden Surname of Mother.	Rank or Profession of Father.	Signature, Description, and Residence of Informant.	When registered.	Signature of Registrar.	Baptismal Name if added after Registration of Birth.
	7th January.	*James.*	*Boy.*	*William Green.*	*Rebecca Green, formerly Jennings.*	*Carpenter.*	*William Green, father, carpenter, 17, North Street, Marylebone.*	*9 January.*	*John Cox, registrar.*	

The words and figures in *italics* in this schedule to be filled in as the case may be.

SCHEDULE (B.).

1836.—DEATHS in the *District* of *Mary-le-bone, North*, in the County of *Middlesex*.

No.	When Died.	Name and Surname.	Sex.	Age.	Rank or Profession.	Cause of Death.	Signature, Description, and Residence of Informant.	When registered.	Signature of Registrar.
17	*4 February.*	*William Green.*	*Male.*	*43*	*Carpenter.*		*Rebecca Green, widow, 17, North Street, Mary-le-bone.*	*5 February.*	*John Cox, registrar.*

The words and figures in *italics* in this schedule to be filled in according as the case may be.

Schedule.

SCHEDULE (C.).

1836.—MARRIAGES solemnized *at the Parish Church* in the *Parish* of *Mary-le-bone* in the County of *Middlesex*.

No.	When married.	Name and Surname.	Age.	Condition.	Rank or Profession.	Residence at the Time of Marriage.	Father's Name and Surname.	Rank or Profession of Father.
1	*17 March*, 1836.	*William Hastings.*	*Of full age.*	*Bachelor.*	*Carpenter.*	*3, South Street.*	*Peter Hastings.*	*Upholsterer.*
		*Sophia *Ann Mitchell.*	*Minor.*	*Spinster.*	—	*17, High Street.*	*Geoffry Mitchell.*	*Butcher.*

Married in the *parish church*, according to the rites and ceremonies of the *Established Church, by licence*, or *after banns*, by me,
James Hollingshead, vicar.

This marriage was solemnized between us, { *William Hastings,* / *Sophia *Anne Mitchell,* } in the presence of us, { *John Hastings.* / *Geoffry Mitchell.* }

The words and figures in *italics* in this schedule to be filled in as the case may be.

* Sic.

SCHEDULE (D.). Schedule.

I *John Cox*, registrar of births and deaths in the *district* of *Mary-le-bone*, *North*, in the county of *Middlesex*, do hereby certify, that this is a true copy of the registrar's book of births [*or* deaths] within the said *district*, from the entry of the birth [*or* death] of *James Green*, No. *1*, to the entry of the birth [*or* death] of *William Strange*, No. *34*. Witness my hand this *seventh* day of *March*, 18*38*.

John Cox, registrar.

[The words and figures in *italics* in the above schedules to be filled in as the case may be.]

[Scheds. (E.), (F.) and (G.): Repealed by 37 & 38 Vict. c. 88, s. 54.]

PAROCHIAL ASSESSMENT ACT, 1836.

6 & 7 WILL. IV., CHAP. 96.

An Act to regulate Parochial Assessments.*

[19th August, 1836.]

WHEREAS it is desirable to establish one uniform mode of rating for the relief of the poor throughout England and Wales, and to lessen the cost of appeal against an unfair rate: . . .

All rates to be made on the net annual value of the property.

[I.] No rate for the relief of the poor in England and Wales shall be allowed by any justices, or be of any force, which shall not be made upon an estimate of the net annual value of the several hereditaments rated thereunto; that is to say, of the rent at which the same might reasonably be expected to let from year to year, free of all usual tenants' rates and taxes, and tithe commutation rent-charge, if any, and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain them in a state to command such rent: Provided always, that nothing herein contained shall be construed to alter or affect the principles or different relative liabilities (if any) according to which different kinds of hereditaments are now by law rateable.

* For "Poor Law Commissioners" throughout this Act, now read "Local Government Board" (34 & 35 Vict. c. 70).

Sect 1. Note.

This section is repealed as regards the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77.

Under the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16), the occupier of agricultural land in any parish is liable in the case of the poor (and certain other) rates, to pay one half only of the rate in the pound payable in respect of buildings and other hereditaments.

Sect. 1.

Note.

Former mode of assessment to poor rate.

For a long time after the passing of the Poor Relief Act, 1601 (43 Eliz. c. 2), poor rates were made on an assessment, not of the net annual value of the rateable property, but of proportions of it; and different parishes adopted different proportions, a practice which frequently resulted in confusion and injustice. Stocks-in-trade and personal property were also generally rateable as well as real property, but in some parishes such property was rated and in others not rated; and the rateability of such property was not abolished until the passing of the Poor Rate Exemption Act, 1840 (3 & 4 Vict. c. 89). As to the possible object of the proviso to this section see *Reg.* v. *Capel*, 12 A. & E. 382, at pp. 411, 415, and *Reg.* v. *Goodchild*, E. B. & E. 1; 27 L. J. M. C. 233.

RATEABLE VALUE.

[The cases here collected mostly refer to the general principles of "rateable value under this section." The cases relating to special kinds of rateable property are collected under the several headings in the notes to 43 Eliz. c. 2, s. 1.]

Net annual value.

This definition of "net annual value," or as it is styled in the form given in the schedule to this Act, "rateable value," is somewhat differently worded in the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 4, which applies exclusively to the metropolis, but the latter enactment is practically identical with the former. It is as follows:—

Gross value.

The term "gross value" means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for an hereditament, if the tenant undertook to pay all usual tenants' rates and taxes, and tithe commutation rent-charge, if any, and if the landlord undertook to bear the cost of the repairs and insurance, and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent.

Rateable value.

The term "rateable value" means the gross value after deducting therefrom the probable annual average cost of the repairs, insurance, and other expenses as aforesaid.

Different parts of hereditament capable of being let separately.

The mere fact that the different portions of one undivided hereditament are capable of commanding rents, if let to different occupiers, does not impose any obligation upon the rating authorities to assess and rate the different parts separately. Whether for rating purposes a particular area of land is to be treated as one hereditament or as more than one is a question of fact (*North Eastern Ry. Co.* v. *York Union*, [1900] 1 Q. B. 733).

Beneficial occupation.

It is assumed that the premises are capable of a beneficial occupation. If they are not they have no rateable value (*Lambeth* v. *London County Council*, [1897] A. C. 625; 66 L. J. Q. B. 806; 76 L. T. 795). The cases bearing on the question of beneficial occupation are collected under 43 Eliz. c. 2, s. 1, *ante*, pp. 24—28.

Rating authority bound by gross estimated value.

Where, on objection being made to a poor rate, the rating authority has fixed the amount of the gross estimated rental of the premises rated appearing in the rate-book, and the ratepayer appeals to quarter sessions against the rate, the rating authority is bound by the gross estimated rental so fixed, and is not entitled to call evidence before the quarter sessions to show that the gross estimated rental has been fixed too low (*Horton* v. *Walsall Union*, [1898] 2 Q. B. 237; 67 L. J. Q. B. 804; 78 L. T. 684; 46 W. R. 607; 62 J. P. 437).

THE HYPOTHETICAL TENANT.

Sect. 1

Note.

In order to ascertain the rateable value of premises, they must be assumed to be let; and the question to be answered is, supposing they were vacant and to be let, what rent might reasonably be expected to be obtained for them. The tenant who, by the statute, is assumed to be willing to rent the premises, has always been spoken of by the court as "the hypothetical tenant" (*London County Council* v. *Erith*, [1893] A. C. p. 588; 63 L. J. M. C. 9; 69 L. T. 725; 42 W. R. 330; 57 J. P. 821).

Where owner is occupier.

It is implied by the statute that where the owner occupies he is to be considered as if he were a tenant or a possible tenant; and the directions in the statute are equivalent to saying that one must look at all possible tenants, and therefore an owner in occupation of the premises is not excluded from consideration as a possible tenant (*Reg.* v. *London School Board*, 17 Q. B. D., p. 740; 55 L. J. M. C. 169; 55 L. T. 384; 34 W. R. 583; 50 J. P. 419).

Competing hypothetical tenant.

It may be that owing to statutory or other restrictions upon the use of the premises the owner is the only person who, if they belonged to some one else, would be willing to take them, and that no other person would be willing to give any rent at all for them in their present condition. It might seem to follow that if no other person were willing to pay any rent for them, the owner, as the only practically possible tenant, would, in the absence of competition, fix the rent he would be willing to give at something merely nominal; and therefore a second assumption is necessary, viz., that of a competitor in similar circumstances, who might want similar premises for similar purposes as the owner; and the rent which, as the result of such a competition, might reasonably be expected to be given for the premises from year to year is to be taken as the value of the premises for the purpose of rating. It was held in one case that if the owner is under a statutory disability to become tenant of the premises, such owner must be excluded from the calculation as a hypothetical tenant (*Owen's College* v. *Chorlton-upon-Medlock*, 18 Q. B. D. 403; 56 L. J. M. C. 29; 56 L. T. 373; 35 W. R. 236; 51 J. P. 356); but this decision has been disapproved of, and no distinction must now be drawn in making the assumption of a hypothetical tenant between an owner who is, and an owner who is not, subject to legal restrictions which would prevent him from becoming a tenant (*London County Council* v. *Erith*, *supra*).

The application of the principle of a hypothetical tenant, and of the competition between the owner of premises as one possible tenant, and some other person in a similar position as another possible tenant, is shown in the following cases:—

The London School Board acquired premises for board schools and playgrounds. No profit in a commercial sense could be made by the school board as tenant of the schools, and if the schools were in the market to be let to a tenant as schools subject to the restrictions imposed by the Education Department, no tenant other than the London School Board could be found who would be willing to take them; but supposing the schools to be in other hands, it might reasonably be expected that they would be let to the school board. It was held, therefore, that the school board must be included in the list of hypothetical tenants, and that the rateable value of the premises must be based on the rent which the board might reasonably be expected to pay for them (*Reg.* v. *London School Board*, 17 Q. B. D. 738; 55 L. J. M. C. 169; 55 L. T. 384; 34 W. R. 583; 50 J. P. 419).

THE HYPOTHETICAL TENANT—*continued.*

Sect. 1

Note.

The mayor and corporation of Burton-on-Trent, under statutory powers, acquired land for a sewage farm, and also land on which they erected a pumping-station. It was impossible to work the farm except at a loss so long as it remained a sewage farm, and no tenant could be found on the market to take it so long as it remained a sewage farm, even at a nominal rent. The pumping-station, also, while used as part of the sewage system, was incapable of yielding a profit. If, however, the sewage farm and pumping-station had belonged to some other person, the mayor and corporation would have been willing to hire them at a yearly rent sufficiently high to support the rate. It was held that the mayor and corporation ought to be considered as possible tenants, and that they were properly assessed (*Burton-on-Trent, Mayor, &c., of*, v. *Burton Union*, or *Egginton Churchwardens*, 24 Q. B. D. 197; 59 L. J. M. C. 1; 62 L. T. 412; 38 W. R. 181; 54 J. P. 453).

The London County Council were owners of premises consisting of a pumping-station and works used in connection with the metropolitan sewage system for the purpose of performing statutory duties, which, so long as they were used as part of the system, were incapable of yielding profit, and the council were practically the only possible tenants. If the premises had been in the possession, not of the council, but of a private owner to let, the council would have been willing to pay a yearly rent for the same as part of the sewage system sufficient to support the rate. It was held that even supposing the council could not under the statute legally be tenants they ought to be taken into account as possible hypothetical tenants for the purposes of determining the rateable value of the premises (*London County Council* v. *Erith*, [1893] A. C. 562; 63 L. J. M. C. 9; 69 L. T. 725; 42 W. R. 330; 57 J. P. 821).

RENT.

Reasonable rent.

In the cases above cited it was found as a fact that the owners of the premises would have been willing to pay a certain rent for the premises, and that no other person could be found who, in the circumstances, would have paid any rent at all for them. The findings of what amount of rent the owner would be willing to pay have therefore proceeded, not on the actual fact that in the circumstances there could be no competition, and that consequently the owner could practically fix the rent he would pay, but upon the assumption that some other possible tenant did exist who would be willing to compete with the owner for the occupation of the premises, and so raise the rent payable to what may be considered a "reasonable" rent.

Rent evidence of value.

Although *primâ facie*, the rent actually paid for the occupation of premises is the best criterion of their value (*Rex* v. *Chaplin*, 1 B. & Ad. 926), rateable value does not depend upon the rent at which the premises *are* let, but the rent at which they might reasonably *be expected to be* let, and "though the rent is good evidence of the rateable value, it is not conclusive; it is open to the parties to show by evidence that it did not fairly represent the annual value" (*Reg.* v. *Eastern Counties Ry. Co.*, 18 Jur. 680; 7 Rail. Cas. 900 n., *per* Lord Campbell, C.J.).

"It must always be remembered that the ultimate question is that propounded by the statute; and, therefore, the amount which has been paid, or which it is reasonable to infer will be paid, is only evidence, not the fact itself to be ascertained" (*Reg.* v. *Westbrook*,

RENT—*continued.*

Sect. 1.
Note.

10 Q. B. 178; 16 L. J. M. C. 87; 11 Jur. 515, *per* Lord Denman, C.J.). Therefore, where three farms were let at a certain sum annually, but might reasonably have been expected to let, and might have let, at a higher sum, it was held that the overseers were wrong in assessing the occupiers at the rent actually paid by them (*Hayward* v. *Brinkworth*, 10 L. T. (N. S.) 608).

Improved value.

"Every inhabitant ought to be rated according to the present value of his estate, whether it continue of the same value as when he purchased it or whether the estate is rendered more valuable by the improvements which he has made upon it. . . . Suppose a person has a small piece of land in the heart of a town, which is only of small value, and he afterwards build on it, he must be rated to the poor according to its improved value with the building upon the land" (*Rex* v. *Mast*, 6 T. R., at p. 155, *per* Lord Kenyon, C.J.).

Estimate to be made of rent payable on tenancy from year to year.

The rent referred to in the statute must be considered to be the rent which a tenant would be expected to give from year to year for premises in their existing condition, and according to their actual capacity to be used beneficially, and not the rent which a person would pay if the property were let for a reasonable term of years, and with a prospect of their increased value during the term: therefore, a cotton mill, which was stopped because the business during the American civil war had declined, was held only to be assessable only on its then value as a warehouse for machinery. "Deferred or reversionary prospects are not to be taken into account" (*Reg.* or *Staley* v. *Castleton*, 5 B. & S. 505; 33 L. J. M. C. 178; 10 L. T. (N. S.) 605; 10 Jur. (N. S.) 1147; 28 J. P. 710; S. P. *Harter* v. *Salford Overseers*, 6 B. & S. 591; 34 L. J. M. C. 206; 11 Jur. (N. S.) 1036; 13 W. R. 86).

Property must be valued as it exists, and it must be assumed that the circumstances which constitute the value to the existing occupier will continue to exist as they are during the tenancy, unless it be made to appear that they are about to undergo a change (*Reg.* v. *Fletton*, 3 E. & E. at p. 465; 30 L. J. M. C. 89; *Reg.* v. *L. B. & S. C. Ry. Co.*, 15 Q. B. 313).

Where the property rated is a wasting property, as a gravel pit, the rateable value is not what the value was in the year preceding the rate, but what a tenant would give for the coming year, and the amount that the tenant has worked out in the previous year is not the basis on which to arrive at the rent that would be paid for the coming year (*Farnham Flint, Gravel and Sand Co.* v. *Farnham Union*, [1901] 1 Q. B. 281).

Where premises cannot be let from year to year.

Where it was practically impossible to let a country mansion on a yearly tenancy, or for any period less than a term of seven years, the direction given by the court as the mode of estimating the rateable value was "to take it for granted that the tenant would not be disturbed for a term of years" (*Clive* v. *Foy Overseers*, 39 J. P. 774). On the other hand, where it was found as a fact that it was practically impossible to let certain small tenements except on weekly tenancies, it was held to be rightly assumed by the sessions that a hypothetical tenant would be willing to take the premises for a year at the same proportional rent that an actual tenant paid per week, *e.g.*, an actual tenant paying 5*s.* a week, it was rightly assumed that the hypothetical tenant would be willing to pay 13*l.* a year (*Smith* v. *Birmingham Churchwardens*, 22 Q. B. D. 703; 58 L. J. M. C. 161; 53 J. P. 787).

ROYALTIES.

Sect. 1.

Note.

Mode of assessing premises subject to royalties.

Where lands such as coal mines, brickfields, &c., are let at a dead rent with a provision for payment of royalties upon the ore or earth raised or consumed, the proper mode of assessing the annual value is to estimate what rent a tenant might be expected to pay for the lands without being liable to a royalty; and in order to make such estimate it is necessary to examine into the capabilities of and the possibilities of working the property. Thus, a tenant rented a brickfield of ten acres at a dead rent of 2*l.* an acre, and was also liable to pay a royalty of 1*s.* 6*d.* per 1,000 bricks moulded on the land. There were four stools on the land for making bricks, which were capable of turning out during the year sufficient bricks to make a royalty of 225*l.* payable, or after allowing for deductions, of 136*l.* The tenant was rated at 159*l.* 10*s.*, which was made up of the 136*l.* and 23*l.* 10*s.*, the estimated agricultural rent of the land. On appeal to the sessions, the sessions confirmed the rate, but found as a fact that the rent which a tenant would have been willing to pay, on taking a lease of the premises with liberty to consume the brick earth, and without being liable to a royalty, was 10*l.* per acre. On a case stated the Court of Queen's Bench ordered the rate to be amended. "The parish officers estimated the rent at a supposed amount of bricks actually made, and the royalty then payable on such amount; from this they make such deductions as reduce the rateable value to 159*l.* 10*s.* But the sessions say, that placing the tenant exactly on the same footing as to the incidents of his occupation, but calling on him to say beforehand what rent he would pay per acre for it, he could not be expected to give more than 10*l.* per acre, which, on the whole, would amount to a little more than 100*l.* The latter appears to us to be the true criterion, rather than the former, and the rate must be amended accordingly" (*Reg.* v. *Westbrook*, 10 Q. B. 178; 16 L. J. M. C. 87; 11 Jur. 515). In another assessment to the same rate another occupier, who paid a royalty only and no rent, was assessed on the basis of the number of bricks capable of being made and the royalties payable thereon, but the sessions did not find as a fact what rent a tenant would be expected to give for the land without being liable to royalties, and the court remitted the case to the sessions to decide that fact in the same manner as they had in *Westbrook's Case;* so that there is no difference in principle between the mode of rating lands where both rent and royalties are paid by the tenant and where royalties only are paid (*Reg.* v. *Everist, id.*).

Tin, lead and copper mines.

Tin, lead, and copper mines are assessed on a principle different from that applicable to coal mines, quarries, &c.

By the Rating Act, 1874 (37 & 38 Vict. c. 54), s. 7, the gross value of the mine is to be taken to be the annual amount of the dues payable during the year ending on December 31st preceding the making of the valuation list, *plus* the amount of fixed rent, and the rateable value is the gross value so arrived at less deductions for repairs, insurance, &c.

PREMIUMS.

It has been decided that when a tenant pays a premium in addition to the yearly rent of the premises, the amount of the premium must be taken into consideration in estimating the rateable value of the premises. It may be that the premium has been paid exclusively for the goodwill attaching to the premises, in which case, unless the premises are licensed premises

PREMIUMS—*continued.*

Sect. 1.

Note.

and the premium is paid in respect of the goodwill assured by the fact of the premises being licensed, the amount paid as premiums will not add to the rateable value of the premises. But if in considering the premium paid it appears that it represents, wholly or in part, capitalized rent, and that in consequence of its payment the rent has been reduced, that fact must be considered as adding to the rateable value of the premises (*West Middlesex Waterworks* v. *Coleman*, 14 Q. B. D. 529; 54 L. J. M. C. 70; 52 L. T. 578; 33 W. R. 549; 49 J. P. 341). Although this case was decided upon the meaning of "annual value" in a water company's Act, the grounds of the decision appear applicable to "rateable value" for the purposes of the poor rate.

A canteen in certain barracks was let for a year for 15*l.*, and a further sum in the nature of a premium of 510*l.* was to be paid for the privilege of using the same as a canteen and selling therein provisions and liquors, with a power of distress for the aggregate sum: it was held that the rateable value of the premises must be calculated on the whole 525*l.*, and not merely the 15*l.* paid for rent. "Notwithstanding the division of the rent into two parcels, this canteen stands precisely on the same footing as a public-house; that is, it acquires a value from its situation, and from its being fitted up in a manner calculated to answer the purpose of a public-house. It is quite immaterial whether the rent which is paid for it is divided into separate parts, so much for the house and so much for the privilege which it enjoys, if it be a rent for one entire canteen; and the party is not rated in respect of the profits of his trade, but only of the rent which he pays" (*Rex* v. *Bradford*, 4 M. & S., p. 329, *per* Le Blanc, J.).

STRUCTURAL VALUE.

When the rental value of property cannot be ascertained by comparing the hereditament with similar hereditaments in the neighbourhood and ascertaining what rent the other hereditaments command, and thus arriving by comparison at an approximation as to what rent a tenant from year to year would be likely to give for the hereditament in question, the next method usually brought into play "is to take the structural value of the buildings and the value of the land upon which they stand, and to calculate what would be the interest upon the capital sum which would have to be expended if the occupier had become the purchaser and not the tenant. For instance, if the cost of the buildings, *plus* the value of the land, was, say, 10,000*l.*, the interest thereon, say at 4*l.* per cent., being 400*l.* a year, the assumption is made that the hypothetical tenant, being desirous of occupying the premises, not purchasing, but becoming a yearly tenant, might be willing to pay as rent a sum in some degree represented by the interest upon the money he would have had to expend had he become a purchaser instead of a tenant. This is a method which is adopted when the comparison of the hereditament with other similar hereditaments is impracticable" (*Mersey Docks and Harbour Board* v. *Birkenhead*, [1900] 1 Q. B. at p. 148, *per* A. L. Smith, L.J.).

"I wish to add a few words as to the method which ought to be followed when it is manifest that an owner would be willing to pay a higher rent than could be obtained from any other tenant. It

STRUCTURAL VALUE—*continued.*

Sect. 1.

Note.

was said that a practice prevails of taking 5*l.* per cent. on the cost in the case of buildings as a basis for arriving at the rental. Such a rule of thumb may be all very well where the premises would be likely to find competing tenants, but it is not by any means necessarily applicable where it is thought that the owner would be likely to give a higher rental than any one else. It would often be obvious that he would never be willing to pay the rent arrived at in such a fashion, inasmuch as it would be more advantageous to him to become the owner. There are many other circumstances, too, which may affect the answer to the question what the owner of the premises would have been willing to give if, instead of becoming the owner, he had become the tenant of them. In all cases of the description of which I am speaking the whole of the circumstances and conditions under which the owner has become the occupier must be taken into consideration, and no higher rent must be fixed as the basis of assessment than that which it is believed the owner would be willing to pay for the occupation of the premises" (*London County Council* v. *Erith*, [1893] A. C. at p. 592; 67 L. J. M. C. 9; 69 L. T. 725; 42 W. R. 330; 57 J. P. 821, *per* Lord Herschell, L.C.). For the other circumstances to be taken into consideration in such a case, see *Mersey Docks and Harbour Board* v. *Birkenhead*, [1900] 1 Q. B. 143, *infra*, p. 537.

TRADE PROFITS.

Not generally to be taken into account.

The actual amount of benefit which the occupier derives from the property is not, as a general rule, to be taken into account in arriving at the rateable value (*Reg.* v. *Rhymney Ry. Co.*, L. R. 4 Q. B. 276; 10 B. & S. 198; 38 L. J. M. C. 75; 17 W. R. 530).

"The profits of trade cannot, as such, be brought into the rate, but if the ability of carrying on a gainful trade upon the land adds to the value of the land, that value cannot be excluded because it relates to trade" (*Reg.* v. *Grand Junction Ry. Co.*, 4 Q. B. 18; 1 D. & M. 237; 13 L. J. M. C. 941; 8 Jur. 508, *per* Lord Denman, C.J.).

"Chambers in one of the Inns of Court are let at a higher rent than they would fetch elsewhere, because they give facilities to gentlemen to carry on the profession of barristers; and if the Attorney-General could only get one set of chambers to carry on his business he would give probably an enormous rent for them, but it so happens that there are a great many sets of chambers, and the rent the Attorney-General gives is just the same as that given for a similar set by a gentleman only called yesterday. So then, the rent is given because the chambers afford facilities for carrying on the business, but the rent is not given according to the profits made, and the man who makes nothing gives as much as the man who is making thousands a year" (*Reg.* v. *L. & N. W. Ry. Co.*, L. R. 9 Q. B. at p. 144, *per* Blackburn, J., and *Mersey Docks* v. *Liverpool*, L. R. 9 Q. B. at p. 97, *per* Blackburn, J.).

Where value of premises cannot be derived from comparison with other premises.

But where the property is of such a nature that its value cannot be calculated by comparison with other property of the like kind, as is the case with railways, docks, canals, piers, &c., such value may be ascertained by an inquiry into the profits; and the same principle is applicable to the rating of premises the occupation of which confers rights in the nature of a monopoly.

TRADE PROFITS—*continued.*

Sect. 1.

Note.

In the case of refreshment rooms at a railway station, the rooms had been let by public tender to a contractor at a fixed annual rent of 1,000*l.*, and he was assessed at that amount gross value, and 800*l.* net rateable value. On appeal to the sessions the contractor sought to prove by his own testimony, and by his account books, that the business was carried on at a loss, and that the rent reserved did not represent the true annual value of the premises. It was held that such evidence was admissible, and that the sessions were right in reducing the assessment, on the ground that the value of the premises depended upon their locality and upon the business carried on in them, and that their value could not be ascertained by comparing them with others of a similar nature, but that such value could to a large extent be ascertained by estimating, from a knowledge of the profits accruing from the business carried on in them, what rent a tenant, knowing the facts, might reasonably be expected to give for them (*Clark* v. *Fisherton-Angar*, or *Alderbury Union*, 6 Q. B. D. 139; 50 L. J. M. C. 33; 45 J. P. 358; 29 W. R. 334). Railway refreshment rooms.

In determining the value of a racecourse, it was held that the assessment committee were entitled to call for the books of the proprietors of the racecourse, or to give affirmative evidence of the amount of profits made, such profits being a material element in ascertaining, although not an actual test of, the value of the property (*Reg.* v. *Verrall*, 1 Q. B. D. 9; 45 L. J. M. C. 29; 33 L. T. (N. S.) 379; 24 W. R. 139; 40 J. P. 450). Racecourse.

Where the question was raised whether evidence as to the profits of a public-house was admissible in order to arrive at the rateable value of the public-house, Lord Esher, M.R., said, with regard to the above case of the refreshment rooms: "With regard to the case of *Clark* v. *Fisherton-Angar* (*supra*), I do not understand it; it seems to me that if it is consistent with the case of the *Mersey Docks* v. *Liverpool* (L. R. 9 Q. B. 84), it carries us no further. If it is inconsistent with it, I am prepared wholly to disagree with it." In the case in which the Master of the Rolls made that remark, it was sought on appeal to quarter sessions against the valuation of a public-house, situated in a town where there were other public-houses of a similar character, to prove by cross-examination on behalf of the assessment committee and by other evidence, what were the average weekly takings of the house. The court of quarter sessions rejected the evidence so tendered; and on a case stated, the Court of Appeal, affirming the judgment of the divisional court, held that as there was nothing exceptional in the case of a public-house so situated, the ordinary mode of arriving at the rateable value should be adopted, viz., by determining what would a tenant give, not for the business carried on in the house, but by way of rent for the house itself, and the evidence tendered by the assessment committee was inadmissible (*Dodds* v. *South Shields Assessment Committee*, [1895] 2 Q. B. 133; 64 L. J. Q. B. 508; 72 L. T. 645; 43 W. R. 532; 59 J. P. 452). Public-house.

The above case was assented to, but distinguished, in the following: On an appeal by the occupier against an assessment of a public-house to a poor rate, an arbitrator to whom the case was referred found that the rents actually paid for other public-houses in the district furnished no criterion of the rent which would be paid for the appellant's house. He rejected evidence which the

TRADE PROFITS—*continued.*

Sect. 1.

Note.

respondents desired to give, by cross-examination of the appellant, of the amount of the weekly takings, but he admitted evidence as to the largeness of the business actually done, and as to the advantageous situation of the house for carrying on business. *Held* that the method adopted by the arbitrator was correct. In assessing the value of a public-house the existence of the licence and the amount of the trade which can be and has actually been carried on there are elements to be considered, in order to arrive at the rent at which the house may reasonably be expected to let. Evidence of these facts is always admissible, and may be necessary where the ordinary evidence of market value by comparison with other public-houses is not to be had. Evidence of profits made is also admissible, but an inquiry into profits should be avoided where possible, because it is regarded as inquisitorial and oppressive. These are matters not of law, but of fact, practice and common sense (*Cartwright* v. *Sculcoates Union*, [1900] A. C. 150; 69 L. J. Q. B. 403; 82 L. T. 157).

Breweries and tied public-houses.

A matter which indirectly raises the question of rating trade profits is that of a brewery with tied public-houses. It has been brought before the courts with different results. A brewery was let for 300*l.* a year, and 150*l.* in respect of the goodwill and trade of thirty-three public-houses tied to the brewery, and it was found as a fact that such public-houses, in consequence of being tied houses, fetched less rent than they would have done if they had been free houses, while the advantage of their compelled custom was worth 150*l.* to the occupier of the brewery. It was held by a majority of the Court of Queen's Bench that the brewery was properly rated on an estimated rental of 450*l.* a year, as the fact of the public-houses being compelled to take their beer from the brewery was an advantage which would be taken into calculation by a tenant of the brewery in estimating the annual rent, and it was immaterial that the origin of this advantage was a personal contract (*Allison* v. *Monkwearmouth*, 4 E. & B. 13; 23 L. J. M. C. 177; 18 Jur. 1075).

In a later case, the majority of the Court of Common Pleas disapproved of the decision in the above case, and held that the advantages attending the contracts with the tied houses which were mere personal contracts, were not to be taken into consideration in estimating the rateable value of the brewery to which the houses were tied; and also that the rateable value of such public-houses was not to be decreased by reason of the burden cast upon the tenants by their contracts with the brewery (*Sunderland Overseers* v. *Sunderland Union*, 18 C. B. (N. S.) 531; 34 L. J. M. C. 121; 13 L. T. (N. S.) 239; 11 Jur. (N. S.) 688; 13 W. R. 943).

When it is necessary to assess the annual value of the tied public-house, and of the brewery, the true principle is to consider the rent which could be obtained from a tenant from year to year, including the brewers as possible competitors, but excluding the consideration that the brewers would give a special rent or order to retain it as a tied house for the sale of their own beer (*White* v. *Bradford-on-Avon Union Assessment Committee*, [1898] 2 Q. B. 630; 67 L. J. Q. B. 643; 78 L. T. 758; 46 W. R. 603; 62 J. P. 533).

Coal mine.

To estimate the value for the purposes of the poor's rate of a coal mine in a district where none are let from year to year, and there is, therefore, no means of ascertaining what a yearly tenant would give for it, the receipts of the mine for the year may be considered. When the gross value of the mine is entered at the same figure as

TRADE PROFITS—*continued.*

Sect. 1.

Note.

the rateable value, the occupiers of the mine are entitled to accept the gross value as being the true gross, and to make deductions therefrom to arrive at the rateable value (*Denaby and Cadeby Colliery Companies* v. *Doncaster Union Assessment Committee*, 62 J. P. 343).

Docks, &c.

The Mersey Docks and Harbour Board were owners of lairages for the reception and slaughter of foreign cattle. On an appeal to quarter sessions against a poor rate the recorder found that were no similar tenements in the neighbourhood with which a comparison could be made. He had evidence before him of structural value, and he admitted in evidence accounts showing the receipts and expenditure of the appellants. *Held* that as the ordinary test of the rental of similar properties could not be applied, and as the structural value alone would not embrace the profit-earning capacity of the premises, the evidence of receipts and expenditure was admissible, and might be considered in conjunction with the structural value and other circumstances of the case in the determination of the gross estimated rental at which the premises should be assessed (*Mersey Docks and Harbour Board* v. *Birkenhead*, [1900] 1 Q. B. 143; 69 L. J. Q. B. 260; 81 L. T. 798).

STATUTORY RESTRICTIONS UPON PROFITS.

Where public bodies occupy premises for the purpose of performing statutory duties, the fact that they cannot make any commercial profit out of the occupation is immaterial. But where the occupation, whether by a public body or a private corporation or person, is not made necessary by reason of a statutory obligation, although it may be authorized by statute, any limitation which the law imposes upon the profit-earning capacity of the occupation must be taken into account in assessing the value of the premises. Thus, the London County Council were authorized, but not required, by statute to acquire lands for the purposes of public recreation, but only under such conditions that it was impossible for the council to maintain the lands except at a pecuniary loss; and it was held that in consequence of such legal restrictions they were not rateable in respect of such lands (*Lambeth* v. *London County Council*, [1897] A. C. 625; 66 L. J. Q. B. 806; 76 L. T. 795).

Certain railway and tramway lines formed part of a dock system, and the dock company were prohibited by statute from taking any tolls for the use of the lines. It was held, that although a tenant could have been found who would pay a rent for the lines if such rent could legally be exacted by the dock company, yet, nevertheless, as no rent could be earned by the dock company by reason of the statutory prohibition, the rent which could have been earned but for that prohibition ought not to be taken into account in determining the rateable value of the dock company's property (*Sculcoates Union* v. *Hull Docks Co.*, [1895] A. C. 136; 64 L. J. M. C. 49; 71 L. T. 642; 43 W. R. 623; 59 J. P. 612).

And, generally, in all cases where the amount of profit which can be earned by the occupation of a hereditament is material in ascertaining the sum at which it should be assessed, as in the case of gasworks, waterworks, and other industrial undertakings, where a hereditament is enhanced in value by its connection with a profit-bearing undertaking, and the profit earned and the share of those profits attributable to any particular hereditament have to be taken into account, in all such cases any restrictions which the law has

STATUTORY RESTRICTIONS UPON PROFITS—*continued.*

Sect. 1. Note.

imposed upon the profit-earning capacity of the undertaking must be considered (*London County Council* v. *Erith*, [1893] A. C. at p. 592, *supra*, p. 534).

DEDUCTIONS.

Tenants' rates and taxes.

Tenants' rates and taxes are only to be deducted when paid by the landlord, as it is the *rent*, not the *hereditament*, which is to be free of tenants' rates and taxes.

Where the landlord paid what is called the water rate, it was held, in 1876, that this could not be deducted from the rent under any of the heads of deduction (*Reg.* v. *Bilston*, L. R. 1 Q. B. 18; 35 L. J. M. C. 73; 7 B. & S. 908; 12 Jur. (N. S.) 139; 13 L. T. (N. S.) 327; 14 W. R. 83). A precisely opposite decision was come to by a divisional court in 1889 (*Smith* v. *Birmingham Churchwardens*, 22 Q. B. D. 211; 58 L. J. M. C. 161; 53 J. P. 787).

Land tax is not included in "tenants' rates and taxes," and no deduction can be allowed in respect of it (*Reg.* v. *Goodchild*, E. B. & E. 1; 27 L. J. M. C. 233).

When land is liable to sewers rate the amount of such rate should be deducted (*Rex* v. *Adams*, 4 B. & Ad. 61; 1 N. & M. 662). Deductions were allowed in respect of (1) general sewers tax; (2) the amount at which the owner and occupier was taxed for the maintenance and cleansing of the sewers in the level; (3) the amount annually expended by him in the maintenance and repair of a floodgate and sluice upon the lands; (4) the expenses of keeping in repair a sea-wall (*Reg.* v. *Hall-Dare*, 5 B. & S. 785; 34 L. J. M. C. 17; 11 Jur. (N. S.) 59; 11 L. T. (N. S.) 301; 13 W. R. 70).

In a case, however, where a tax amounting to the full yearly value of the lands was imposed upon the lands by commissioners for the purpose of maintaining a sea-wall, it was held that the amount of this tax could not be deducted from the gross estimated rental, the effect of which would have been to reduce the rateable value to zero (*Reg.* v. *Vange*, 3 Q. B. 242; 11 L. J. M. C. 117; 6 J. P. 668).

Semble, that general sewers rates under the Land Drainage Act, 1861, and local Acts of a similar nature, are included in tenants' rates, and that special sewers rates under that Act, though not tenants' rates, are allowed to be deducted on the ground that they are expenses necessary to maintain the hereditaments in a state to command the rent (*Reg.* v. *Gainsborough Union*, L. R. 7 Q. B. 64; 48 L. J. M. C. 1; 20 W. R. 250).

Where the landlord compounds for the rates, he is entitled to the full amount of the deductions that might be claimed by the tenant, not merely the reduced amount paid the landlord (*Reg.* v. *Dodd*, L. R. 1 Q. B. 16; 6 B. & S. 903; 35 L. J. M. C. 97; 12 Jur. (N. S.) 159).

Tithe commutation rent-charge.

By the statute the rent is to be free of tithe commutation rent-charge. This, at the time of the passing of this Act and of the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), was primarily payable by the occupier and not by the owner. The burden, however, has been shifted by the Tithe Act, 1891 (54 & 55 Vict. c. 8), in respect of the tithe rent-charge affected by that Act, and such rent-charge is now payable by the owner,

DEDUCTIONS—*continued.*

Sect. 1.

Note.

notwithstanding any contract to the contrary between the owner and the occupier, and consequently must be allowed as a deduction in all cases.

Repairs, insurance, and other expenses.

The amount to be deducted from the gross estimated value on this head is not the amount expended in repairs, &c., in any particular year, but the probable annual average of expenses (*Rex* v. *Hull Docks Co.*, 5 M. & S. 394). An allowance may be made for the creation of a sinking fund to provide for the contingent or future renewal of premises which are liable to deterioration, such as railway lines (*Reg.* v. *L. B. & S. C. Ry. Co.*, 15 Q. B. 313; 20 L. J. M. C. 124), or farm buildings and machinery (*Reg.* v. *Wells*, L. R. 2 Q. B. 542; 8 B. & S. 607; 55 L. J. M. C. 109; 16 L. T. (N. S.) 790; *Rex* v. *Lower Mitton*, 9 B. & C. 810; 4 M. & R. 711), on the ground that the creation of such a fund is in the nature of an insurance. In the case of mills and machinery twenty-five per cent. has been considered a fair deduction on this head (*Oldroyd* v. *Hunslet Union*, 51 J. P. 57).

Where by the terms of his tenancy a tenant undertakes to do the repairs, &c., which ordinarily fall upon the landlord, no deduction is allowable for the expenses of such repairs, as presumably the tenant would give a higher rent for the premises if the obligation of doing the repairs were assumed by the landlord instead of by himself (*Reg.* v. *Wells*, L. R. 2 Q. B. 542, *supra*).

Voids and losses of rent.

In the case of small tenements usually let on weekly tenancies, it has been held that no deduction is to be allowed from the gross estimated yearly rental in respect of possible voids and consequent losses of rent during the year (*Smith* v. *Birmingham Churchwardens*, 22 Q. B. D. 703; 58 L. J. M. C. 161; 53 J. P. 787).

Tenant's profit from the occupation.

Where premises which are used for the purposes of a commercial undertaking are not actually let, and could not practically be let to any person other than the actual occupier, then, in fixing the rent that a hypothetical tenant would give for such premises, an allowance must be made for the profit from the occupation which a tenant must be assumed to make in order to induce him to take the premises, inasmuch as a tenant would only pay a rent that would enable him to carry on the undertaking at a profit (*Reg.* v. *Southampton Docks*, 14 Q. B. 587; 20 L. J. M. C. 155; *Mersey Docks* v. *Liverpool*, L. R. 9 Q. B. 84; 43 L. J. M. C. 33; 22 W. R. 184; 38 J. P. 21). But where the statutory conditions are such that a tenant cannot make any profits, no such allowance can be made (*Ib.*).

In the case of rating a tithe rent-charge, no allowance for tenants' profits should be made unless it is proved as a fact that no tenant could be found for the tithe rent-charge, unless he received something by way of profit over and above a reasonable remuneration for collection (*St. Asaph* v. *Llanrhaiadr-yn-Mochnant*, [1897] 1 Q. B. 511; 66 L. J. Q. B. 267; 76 L. T. 42; 61 J. P. 213; *R.* v. *Goodchild*, or *Hackney and Lamberhurst Tithe Commutation Rent-charges*, E. B. & E. 1; 27 L. J. M. C. 233).

Directors' salaries, &c.

In the case of trading companies a reasonable remuneration to directors for managing the business of the company is an allowable deduction (*Reg.* v. *Southampton Dock Co.*, 14 Q. B. 587, explaining *Reg.* v. *St. Giles, Camberwell*, 14 Q. B. 571, where remuneration of directors was not allowed as a deduction in the circumstances of the case).

Sect. 2.

Rates to be made in form in schedule to this Act.

II. Every such rate made shall, in addition to any other particular which the form of making out such rate shall require to be set forth, contain an account of every particular set forth at the head of the respective columns in the form given in the schedule to this Act annexed, so far as the same can be ascertained; and the churchwardens and overseers or other officers whose duty it may be to make and levy the said rate, or such a number of the said churchwardens and overseers or other officers as are competent to the making and levying of the same, shall, before the rate is allowed by the justices, sign the declaration given at the foot of the said form; and otherwise the said rate shall be of no force or validity: Provided always, that nothing herein contained shall be construed to prevent the owners of tenements from compounding for the rates to be assessed on the same, in such manner as they were by any statute or statutes enabled to do before the passing of this Act, so that the gross estimated rental of the hereditaments compounded for be entered on the rate in the proper column.

Nothing herein to prevent owners from compounding for rates.

Sect. 2.

Note.

This section is repealed so far as it relates to the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 77.

FORM OF POOR RATE.

Where there is any agricultural land in a parish the form of the rate set out in the schedule to this Act is not to be used, but in lieu thereof there is to be used the form set out in Schedule Y. to the Local Government Order, July 26th, 1896, issued in pursuance of the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16).

By the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 14, the overseers are to state in the title of each rate the period for which the rate is made, and, if the rate is payable by instalments, the amount of each instalment and the date when the same is payable.

Heading of rate.

The rate must be properly headed; a rate which does not, by its heading, or otherwise on the face of it, show for what purpose and by what authority it is made is void (*Reg.* v. *Eastern Ry. Co.*, or *Eastern Counties Ry. Co.* v. *Moulton*, 5 E. & B. 974; 25 L. J. M. C. 49; 20 J. P. 566).

To include names of all persons and property rateable.

The rate must include the names of all persons rateable within the parish or township; otherwise any of those actually rated may appeal. And it must state the property in the parish, with respect to which the party is rated, otherwise it will be bad upon appeal; for if any person should wish to appeal, on the ground that another is under-rated, it would be impossible for him to tell in respect of what property the rate was imposed (*Rex* v. *Aire and Calder Navigation*, 2 B. & C. 713).

Form in schedule.

The form of rate given in the schedule is given merely by way of example. It did not in any way alter the law as to property liable to be rated (*Reg.* v. *Lumsdaine*, 10 A. & E. 157); nor is it necessary to follow the precise words of the form (*Reg.* v. *Paynter*, 10 Q. B. 908; 16 L. J. M. C. 136).

ALLOWANCE OF POOR RATE.

By the Poor Relief Act, 1601 (43 Eliz. c. 7), s. 1, the rate must be made with the consent of two or more justices of the peace.

ALLOWANCE OF POOR RATE—*continued.*

Sect. 2.

Note.

By the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 17, a poor rate is deemed to be made on the day when it is allowed by the justices.

Allowance is a ministerial act.

The allowance of a poor rate by justices is deemed a mere ministerial act, which the justices cannot legally refuse to perform if the rate be presented to them in proper form by the proper officers; if they refuse, the High Court of Justice will compel them by *mandamus* to allow it. Where a *mandamus* was directed to two justices to allow a rate and they returned that it was not a just and proper rate, the court held the return bad; whether the rate were a just and proper rate or not was a matter to be determined by the sessions, and not by the two justices, who were required to sign it merely as a matter of form (*Rex* v. *Dorchester JJ.*, 1 Str. 393). But where upon a return to such *mandamus*, it appeared that the justices to whom it was directed were justices of Wootton Bassett; that overseers for that part of the parish within the borough had always been appointed, who made rates within their jurisdiction; but that the present rate was presented to the justices for allowance, not by the overseers of the borough, but by the overseers of the county: the court held this to be a good return (*Rex* v. *Folly*, 1 Bott., 6th ed., pl. 86).

Notwithstanding anything in this Act, the allowance is still holden to be merely a ministerial act, in the same manner precisely as before this statute. And therefore, where a poor rate was made by two overseers, and there were also two churchwardens in the parish, and the justices refused to allow it, as it was not made or signed by a majority, Williams, J., awarded a *mandamus* to compel them (*Reg.* v. *Lord Godolphin*, 13 L. J. M. C. 27; 1 D. & L. 830; 1 N. S. C. 1; 8 Jur. 574). So, where a rate was presented to the petty sessions for allowance; but because it was not made according to a previous valuation which had been made of the parish, the justices refused to allow it; the court upon application granted a *mandamus* to the justices to allow it, holding that the allowance was still a ministerial act, as much as it was under 43 Eliz. c. 2. "The overseers may be compelled to take the opinion of skilful surveyors, but there is nothing in the new Assessment Act which compels them to follow or adopt it; they are still to exercise their judgment in making the rate, and if they make the declaration at the foot thereof required by the statute, the justices are not to set up their judgment against that of the overseers, and refuse to allow the rate, because they happen to differ from them in opinion" (*Reg.* v. *Earl of Yarborough*, 12 A. & E. 416; 3 P. & D. 491).

Metropolitan magistrate.

Where a poor rate was stated to be allowed "by one of Her Majesty's justices of the peace acting within the metropolitan police district, pursuant to the statute in that case made and provided," without stating that the justice at the time was acting at any of the metropolitan police courts, the court held it to be sufficient (*Reg.* v. *Paynter*, 10 Q. B. 908; 16 L. J. M. C. 136).

Attachment.

Where a *mandamus* had been directed to justices, commanding them to allow a rate, and they kept out of the way, to avoid a service of writ upon them, the court upon application granted an attachment against them (*Rex* v. *Edwards*, 1 W. Bl. 637).

Alteration after allowance.

When the justices signed the declaration in the rate-book allowing a rate, part of the amount of the rate set out in the declaration

Sect. 3.

Power to order new survey and valuation.

III. When it shall be made to appear to the Poor Law Commissioners, by representation in writing from the board of guardians of any union or parish, under their common seal, or

---

ALLOWANCE OF POOR RATE—*continued.*

Sect. 2.

Note.

had been left blank, and was subsequently filled in by somebody else. The declaration referred to the foregoing rate, and the real amount of the rate clearly appeared from the other parts of the rate-book. *Held* by quarter sessions that the rate had been duly allowed (*Burrows* v. *Brentford Union*, 60 J. P. 507).

DECLARATION BY OVERSEERS.

In every parish in which a valuation list under the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), is in force, the declaration set out in the schedule to that Act is, by sect. 28 of that Act, to be substituted for that set out at the foot of the form of rate in the schedule to this Act.

The clause in this section as to the rate being of no force or validity does not apply to the whole of the previous part of the section, but only to that part immediately antecedent, relating to the churchwardens and overseers signing the declaration at the foot of the rate. Consequently, if a rate be not in the form here given, it is not therefore void, but merely voidable upon appeal; but if the churchwardens and overseers neglect to sign the declaration at foot of it, the rate is void altogether (*Reg.* v. *Fordham*, 11 A. & E. 73; 9 L. J. M. C. 3).

COMPOUNDING FOR RATES.

The enactment in force regulating the powers of owners to compound for rates at the passing of this Act was sect. 19 of the Poor Relief Act, 1819 (59 Geo. 3, c. 12), better known as Sturges Bourne's Act. That section was impliedly repealed by subsequent legislation (see *West Ham* v. *Fourth City Mutual Building Society*, [1892] 1 Q. B. 654; 61 L. J. M. C. 128; 66 L. T. 350; 40 W. R. 446; 56 J. P. 438), and has been replaced by the provisions of the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41).

Sect. 3.

Note.

By the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 7, as extended by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 28, the guardians of a union, or of a parish not in union, may cause a valuation to be made of any rateable property in a parish, being a part only of the rateable property of such parish.

By the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 23, the assessment committee may direct a new valuation of all or any hereditaments in a parish.

In the metropolis, new valuations are regulated by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), ss. 46, 47.

The Poor Law Commissioners having by order directed to the guardians of a union, ordered that a survey of a parish within the union should be made, and the money provided for by a charge on the rates of the parish; and the guardians having ordered the overseers of the parish to make a separate rate for raising the required sum: *held* that the order of the guardians was bad,

from the majority of the churchwardens and overseers or other officers competent as aforesaid to the making and levying the rate, that a fair and correct estimate for the aforesaid purposes cannot be made without a new valuation, it shall be lawful for the Poor Law Commissioners, where they shall see fit, to order a survey, with or without a map or plan, on such scale as they shall think fit, to be made and taken of the messuages, lands, and other hereditaments liable to poor rates in such parish, or in all or any one or more parishes of such a union, and a valuation to be made of the said messuages, lands, and other hereditaments according to their annual value, and to direct such guardians to appoint a fit person or persons to make and take every such survey, map or plan, and valuation, and to make provisions for paying the costs of every such survey, map, or plan, and valuation, either by a separate rate, or by a charge on the poor rates, as they may see fit; but in case of such charge being made, then provisions shall be made for paying off not less than one-fifth of the sum charged on the rates, and such interest as may from time to time be payable in respect of such charge or any part thereof, in each succeeding year, till the whole is repaid.

Sect. 3.

Note.

Power for surveyors to enter and examine lands, &c., for purposes of survey and plan.

IV. For the purpose of making every such survey, map, or plan, and valuation, it shall be lawful for the person or persons so to be appointed for making the same respectively, together with their and every of their assistants and servants, at all reasonable times, until the same respectively shall be completed,

Sect. 3.

Note.

because if the statute gave them power to choose in which of the two modes payment should be made, then the order of the Poor Law Commissioners was invalid; as illegally directing payment in one mode, and the guardians were therefore making an order on their own authority which they could not do. *Quære*, whether the words "as they may see fit" in this section refer to the Poor Law Commissioners or to the guardians (*Reg.* v. *Bangor*, 10 Q. B. 91; 16 L. J. M. C. 58).

Guardians cannot bind themselves by an order not under seal to remunerate a surveyor for making a survey and map under this section, as such an order is not a contract necessarily incident to the purposes for which they are incorporated (*Paine* v. *Strand Union*, 8 Q. B. 326; 15 L. J. M. C. 89; 10 Jur. 308).

If the expense of the survey is made a charge on the rates, but is not in fact paid off within the five years as provided by the statute, the overseers may charge the rate after the end of the five years in order to raise the money remaining due with interest, and in a proper case will be compelled by *mandamus* to do so (*Reg.* v. *Hurstbourne Tarrant*, E. B. & E. 246; 27 L. J. M. C. 214; 31 L. T. 115; 4 Jur. (N. S.) 783).

Sect. 4.

Note.

Similar powers are given to the person appointed to survey hereditaments for the valuation list in the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 69), s. 38.

Sect. 4.

to enter, view, and examine, survey, and admeasure, all and every part of the messuages, lands, and other hereditaments aforesaid, and to do or cause to be done any act or thing necessary for making such survey, map, or plan, and valuation: Provided always, that any map, survey, plan, or valuation made previously to the appointment of such person or persons, which shall be tendered to him or them, and which shall be in his or their judgment and to his or their satisfaction a just and true map or survey, proper for the purposes aforesaid, may be used for such purposes.

Power to take copies or extracts of rates gratis.

V. It shall be lawful for any person or persons rated to the relief of the poor of the parish in respect of which any rate shall be made, at all seasonable times, to take copies thereof or extracts therefrom without paying anything for the same, anything in any Act of Parliament to the contrary notwithstanding:

Penalty for refusal to permit the same.

and in case any person or persons having the custody of such rate shall refuse to permit or shall not permit such person or persons so rated as aforesaid to take copies thereof or extracts therefrom, the person or persons so refusing or not permitting such copy or extract to be made shall forfeit and pay any sum not exceeding five pounds, to be recovered in a summary way before any justice of the peace having jurisdiction in the parish or place.

Justices acting in petty sessions

VI. The justices acting in and for every petty sessions division shall four times at least in every year hold a special

---

Sect. 5.

Note.

Under the Poor Relief Act, 1743 (17 Geo. 2, c. 3), s. 2, any "inhabitant," whether a ratepayer or not, may inspect the rate on payment of one shilling; and under the Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 16, all registered voters may inspect and take extracts from the rate-book *gratis*. This section does not repeal 17 Geo. 2, c. 3, s. 2 (*Tennant* v. *Cranston*, 8 Q. B. 707; 15 L. J. M. C. 105).

Sect. 6.

Note.

This section is repealed as regards the metropolis by the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 69), s. 77, and its provisions replaced by sects. 18—22 of that Act.

In a rural parish having a parish council one effect of sect. 6 (1) (c) of the Local Government Act, 1894, is to make it necessary to give notice of appeal against a poor rate to the parish council, and it will be advisable, until that sub-section has received judicial interpretation, to give notice also to the overseers.

By the Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict. c. 39), s. 1, no appeal against a poor rate can be brought to special sessions unless the appellant has given notice of objection to the assessment committee against the valuation list, and has failed to obtain relief; and after failing to obtain relief has given twenty-one days' notice of appeal to the assessment committee with the grounds of appeal. By sect. 6 of the same Act a justice is not disqualified from determining an appeal by reason of his being rated

Sect. 6.

to hold four special sessions in the year to hear and decide appeals against rates, subject to an appeal from their decision to the quarter sessions.

sessions for hearing appeals against the rates of the several parishes within their respective divisions, and shall cause public notice of the time and place when and where such special sessions will be holden to be affixed to or near to the door of the parish church of the said parishes, twenty-eight days at the least before the holding of the same; and such special sessions shall and may be adjourned from time to time by the justices there present, as they may think fit; and at such special or adjourned sessions the justices there present shall hear and determine all objections to any such rate on the ground of inequality, unfairness, or incorrectness in the valuation of any hereditaments included therein, which decision shall be binding and conclusive on the parties, unless the person or persons impugning such decision shall within fourteen days after the same shall have been made cause notice to be given in writing of his, her, or their intention of appealing against such decision, and of the matter or cause of such appeal, to the person or persons in whose favour such decision shall have been made, and within five days after giving such notice shall enter into a

---

Sect. 6.

Note.

in some other parish in the union than that for which the rate appealed against is made.

By the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 7, clerks to justices are entitled to fees for preparing the notices of special sessions, which fees are to be paid by the overseers and charged on the poor rate.

Appeal to special sessions.

Notice of appeal must be given within a reasonable time after the making of the rate, or (since 27 & 28 Vict. c. 39, s. 1) after the decision of the assessment committee upon objection to the valuation list, *i.e.*, the appeal should be to the next practicable sessions; otherwise the justices are not bound to hear it. The North Western Railway Company were rated by a rate made December 7th, 1848, and paid a portion of the amount, but afterwards, on July 12th, 1849, they gave notice that they should appeal against the rate at the next special sessions, which were to be holden on August 9th, 1849; but as two special sessions had been holden in the interval between the making of the rate and the giving notice of appeal, the justices, when the cause came on for hearing, held that the appellants had not appealed within a reasonable time, and they therefore refused to hear the appeal; the court held that they were right; that the appeal in such a case must be within a reasonable time, and what shall be deemed a reasonable time is a matter entirely for the justices' decision (*Reg.* v. *Trafford*, or *Lancashire JJ.*, 15 Q. B. 200; 19 L. J. M. C. 199, followed in *Reg.* v. *Hammond*, 4 N. S. C. 316). The High Court will, however, review, if necessary, the decision of the sessions as to what is a reasonable time (see *Liverpool Gas Co.* v. *Everton*, L. R. 6 C. P. 414; 40 L. J. M. C. 104; 35 J. P. 186).

A service of notice of appeal to the special sessions against a poor rate made upon the overseers and one of the churchwardens is a sufficient service within this section (*Reg.* v. *Weedon Beck*, 21 L. T. 139); and a notice given to one only of the overseers has been held sufficient (*Reg.* v. *Devon JJ.*, 3 N. S. C. 96).

The justices at special sessions have no power to state a case under 20 & 21 Vict. c. 43, upon an appeal to them against a poor

Sect. 6.

recognizance before some justices of the peace, with sufficient securities, conditioned to try such appeal at the then next general sessions or quarter sessions of the peace which shall first happen, and to abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions or any adjournment thereof; and such justices, upon hearing and finally determining such matter of appeal, shall and may, according to their discretion, award such costs to the party or parties appealing or appealed against as they shall think proper, and their determination in or concerning the premises shall be conclusive and binding on all parties, to all intents and purposes whatsoever: Provided always, that no such objection shall be inquired into by the said justices in special session unless notice of such objection in writing under the hand of the complainant shall have been given, seven days at least before the day appointed for such special session, to the collector, overseers, or other persons by whom such rate was made: Provided also, that the said justices in special session shall not be authorized to inquire into the liability of any hereditaments to be rated, but only into the true value thereof, and into the fairness of the amount at which the same shall have been rated.

Seven days' notice to be given of objections.

Justices not to inquire into liability of the property.

Justices may act with all the powers of

VII. The justices present at any such special or adjourned session shall for the aforesaid purpose have all the powers of

Sect. 6.

rate under this section (*Wheeler* v. *Burmington*, 29 L. J. M. C. 175 n.; 6 Jur. (N. S.) 698; 2 L. T. (N. S.) 171; 8 W. R. 412; 24 J. P. 660).

Note,

It is sufficient if the recognizances be entered into verbally within the five days, even though they are not perfected until long afterwards (*Reg.* v. *St. Albans JJ.*, 8 A. & E. 932).

Appeal from special sessions.

An assessment committee, who have appeared as respondents under the Union Assessment Committee Act, 1864 (27 & 28 Vict. c. 39), s. 2, may appeal in the name of the guardians to the quarter sessions against a decision of the special sessions (*Reg.* v. *Montgomeryshire JJ.*, 50 L. J. M. C. 52; *Newtown and Llanidloes Union* v. *Pryce Jones*, 44 L. T. 310; 45 J. P. 407).

Sect. 7.

This section is repealed by the Metropolis (Valuation) Act, 1869 (32 & 33 Vict. c. 67), s. 77, so far as it relates to the metropolis as defined by that Act.

Note.

By the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 6, power is given to quarter sessions to amend the rate by altering the assessment of the appellant; and by the Poor Rate Act, 1801 (41 Geo. 3, c. 23), ss. 1, 6, power is given to amend the rate by altering the assessments of other persons; and under either Act, quarter sessions can quash the whole rate.

Quarter sessions are empowered to award costs under the Poor Relief Act, 1743 (17 Geo. 2, c. 38), s. 4, or under the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 5.

By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 70, the attendance of witnesses on appeals can be compelled.

When a rate is quashed in special sessions a person who has paid it shall be allowed it in the next effective rate, in the same manner as if the rate had been quashed at quarter sessions (*Reg.* v. *Kingston-on-Thames JJ.*, 27 L. J. M. C. 201; 22 J. P. 36).

amending or quashing any such rate so objected to of any parish or other district within their division, and likewise of awarding costs to be paid by or to any of the parties, and of recovering such costs, which any court of quarter sessions has upon appeals from any such rate, except as herein excepted: Provided always, that no order of the said justices shall be removed by *certiorari* or otherwise into any of His Majesty's Courts of Record at Westminster: Provided also, that nothing in this Act contained shall be construed to deprive any person or persons of the right to appeal against any rate to any court of quarter sessions: Provided also, that no order of the said justices in special session shall be of any force pending any appeal touching the same subject matter to the court of quarter sessions having jurisdiction to try such appeal, or in opposition to the order of any such court upon such appeal.

Sect. 7. justices in quarter sessions, &c.

VIII. This Act shall extend only to England and Wales.

Extent of Act.

[Sect. 9: Repealed by the S. L. R. Act, 1874.]

SCHEDULE TO WHICH THIS ACT REFERS.

Form of Rate.

An Assessment for the Relief of the Poor of the Parish of Merton in the County of Surrey, and for other Purposes chargeable thereon according to Law, made this thirtieth day of March in the year of our Lord one thousand eight hundred and thirty-sveen, after the Rate of Sixpence in the Pound.

No.	Arrears due or if excused.	Name of Occupier.	Name of Owner.	Description of Property rated.	Name or Situation of Property.	Estimated Extent.	Gross estimated Rental.	Rateable Value.	Rate at 6*d.* in the Pound.
	£ s. d.					A. R. P.	£ s. d.	£ s. d.	£ s. d.
1	- - -	James Smith.	John Green	Land and buildings.	Whiteacre farm.	40 0 0	60 0 0	55 0 0	1 7 6
2	- - -	Ditto	Ditto	House and garden.	In West Street.	0 1 0	30 0 0	25 0 0	0 12 6
3	- - 7½ excused	John Poor	Ditto	House -	In Brick Lane.	- - -	1 10 0	1 5 0	0 0 7½
&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.

Schedule.

Declaration of Overseers and Churchwardens.

We, do declare the several particulars specified in the respective columns of the above rate to be true and correct, so far as we have been able to ascertain them, to which end we have used our best endeavours.

Thomas Jones, overseer.
John Thomas, [churchwarden, &c., &c.].

Schedule.

Note.

As to the form of rate and of declaration see notes to sect. 2. *supra*.

INDEX TO VOL. I.

A.

ABLE-BODIED POOR,
to be set to work, 1.
to be relieved by labour only, 13.
not to be relieved if on strike, 11.
to be set to work on land hired for the purpose by overseers, 341.
refusing to work, penalty on, 105, 109.
punishable as an idle and disorderly person, 357.
are to receive and may sue for wages due in respect of work done on lands hired for relief purposes, 341.
relief given to may be considered as a loan, 475.
wages of may be attached in repayment, 475.

ACCOUNTANT-GENERAL,
money paid to a vendor of land, bought for building a workhouse, who is incapable of giving discharge to be paid to, 505.

ACCOUNTS
of Overseers,
when to be made up, 215.
books of to be preserved, 215.
payments on invalid contracts not to be allowed in, 468.
when to be submitted to justices in special sessions, 296.
audit of, 216.
appeal against, 112.
of Vestry
to be kept in a proper book, 411.
inspection of, 411.
penalty for refusing inspection, 411.
audit of, 413.
to be signed by auditors and vestry clerk, 413.
auditors may add remarks to, 413.

ACCOUNTS—*continued.*
of Parish
to be open to inspection after audit, 413.
abstract of to be published after audit, 413.
of Poor Law Officers, rules for keeping, &c., to be made by Local Government Board, 440.
of Union Officials to be rendered quarterly to auditor, 465.
of Metropolitan Police, what to specify, 387.
of Receiver of Metropolitan Police, audit of, 381.
of estates held in trust for relief of the poor, Local Government Board may call for, 490.
of births and deaths to be made out by registrars quarterly, 519.

ADMINISTRATOR,
settlement of by next of kin, 129.

ADULTERY,
husband not bound to maintain wife guilty of, 357.

ADVERTISEMENTS,
abolition of stamp duty on, 491.

AFTERMATH,
rateability of, 810.

AGENT,
in occupation of premises not rateable, 17.

AGREEMENT
under Local Government Board Rules, not liable to stamp duty, 491.
giving land instead of tithe, copies of, to be deposited with diocesan registrar, incumbent, and churchwardens, 513.
recitals in confirmed, evidence of the matters therein recited, 513.

AGRICULTURAL LAND,
occupier of only liable for half the rate in the pound, 527.

ALLOTMENT
in lieu of tithe, rateable, 86.
lands vested in parish council may be let for, 342.
inclosure of Crown lands for, 402.
no settlement by renting, 402.
in inclosed parishes may be let to cottagers, 415.
parish, must be duly cultivated, 416.
application for must be made to vestry yearly, 416.
rent for, to whom to be paid, 416.
if rent in arrear or not properly cultivated tenant may be evicted, 416.
notice to quit, by whom signed, 417.
recovery of possession summarily, 417.

ALLOTMENT—*continued.*
parish, must be duly cultivated—*continued.*
summons for, how served, 417.
no habitations to be erected on, 418.
rent of, how to be applied, 418.
recovery of rent by overseers summarily, 418.
distress for, 418.
ejectment of tenant from, 350.
to be managed by guardians, or, if none, by overseers, subject to Rules of Local Government Board, 509.

AMBASSADORS,
landlord to pay police rate levied in respect of premises occupied by, 386.

ANNUAL VALUE
of rateable property, how estimated, 528.

APOTHECARIES
in London exempt from serving parish office, 184.
in the country exempt if they have practised for seven years, 185.

APPEAL
to "general or quarter sessions," meaning of, 190.
from borough having no separate court of quarter sessions to lie to county quarter sessions, 355.
from borough not having more than six justices to lie to county quarter sessions, 355.
costs of, general powers of quarter sessions as to, 488.
no defect in form of to prevent hearing on the merits, 206.
decision of quarter sessions as to form is final, 206.
on hearing justices may rectify formal defects and proceed to hear and determine, 206.
Overseers,
against appointment of, 3, 6.
against accounts of, 112.
against apprenticeship orders made by, 260.
against audit of overseers' accounts by borough magistrates, where to be brought, 298.
by overseer, against conviction for neglect, 263.
against justices' audit of accounts, 297.
against penalty under Burial of Drowned Persons Act, 290.
against conviction for refusing to receive removed poor, 182.
against penalty for not keeping register of parish apprentices, 286.
against order for payment of charges of sick poor if they exceed 20*l.*, 267, 271.

APPEAL—*continued.*
against poor rate,
by persons aggrieved to quarter sessions, 112, 218.
to what sessions to be brought, 220.
may be entered at adjourned sessions, 222.
what notice to be given, 223.
justices being ratepayers of interested parish, whether disqualified from hearing, 209.
rate may be amended without being quashed, 276.
notice of, when and to whom to be given, 279.
grounds of, to be stated in notice, 279.
on hearing, only grounds stated in notice to be inquired into, 279.
except by consent in open court, 280.
if rate quashed, sum assessed to be levied notwithstanding, 276.
to special sessions,
for what it lies, 277, 544.
notice of, 545.
powers of justices at, 546.
from special sessions to quarter sessions,
notice of objections to be given, 546.
costs of, 546.
does not lie against issue of warrant of distress for poor rate, 112.
against distress for poor-rate, 225.
on hearing, rating authority bound by gross value appearing in rate books, 528.
And see POOR RATE—APPEAL.
against adjudication of settlement, 181.
powers of justices to give costs on, 187.
against removal order,
where to be brought, 155.
reasonable notice of, to be given, 201.
practice as to, 201, 202.
grounds of, to be sent within fourteen days of the sessions, 201.
by whom notice to be given, 202.
notice to be served on clerk of the guardians, 201.
service of notice of, 204.
clerical error in notice of, 203.
notice given for wrong sessions, effect of, 203.
grounds of, when to be sent, 486.
when appeal is adjourned, 486.
how and when to be served, 485.
requisites of, 485.
costs may be given to successful appellant, 205.
when to be paid by guardians of unsuccessful union, 488.

APPEAL—*continued.*
against removal order—*continued.*
appellant union may examine pauper as to settlement, 484.
against removal order from lying-in hospital, 246.
against distress warrant for recovering expenses of removal from lying-in hospital, 246.
no removal to take place pending, 483.
on hearing of, case cannot be stated for High Court, 157.
against assessment for police rate, 389.
notice of, to whom to be given, 380.
what relief may be given on hearing, 390.
against an order for maintenance, 271.
against a conviction for vagrancy, 364.
by constable against conviction for neglect, 263.
by a master against conviction for ill-treating an apprentice, 263.
against a conviction under the Poor Law Amendment Act if penalty amounts to 5*l.*, 497.
when to be brought, 498.

APPOINTMENT
of Overseers, 1.
by justices, 4, 9.
in rural parishes by parish council, 4, 10.
by parish meeting, 4.
by borough council, 4.
by guardians, 4.
by urban district councils, 10.
for a divided parish, 9.
to be notified to guardians, 4.
mode and form of, 9.
of person exempt, effect of, 3, 8.
how discharged, 9.
who may appeal against, 3.
confirmation on *certiorari*, 3.
removable by *certiorari*, 3.
of Assistant Overseer, 333—335.
of Assessor under Police Act to assess property not liable for poor rate, 388.
of Police Magistrates, 377.
of Visitors of workhouses, 462.
of Parish Officers, 463.
instrument appointing under Local Government Board Rules not liable for stamp duty, 491.
of Returning Officer for election of guardians, 465.
of Registrar-General, 514.
of staff of, 515.

APPOINTMENT—*continued.*
of Registrars and Superintendent Registrars of Births, &c., 515.
instrument appointing exempt from stamp duty, 517.

APPORTIONMENT
of tithe, copies to be deposited with registrar of diocese, incumbent, and churchwardens, 513.
inspection of copies by parties interested, 513.
recitals in to be evidence of the matters therein recited, 513.

APPRENTICE,
powers of binding transferred to guardians, 250.
two justices must approve indenture if premium paid, 318.
substitution of guardians for justices in management of, 314.
rules for apprenticing parish children to be made by Local Government Board, 440.
justices to certify whether Rules of Local Government Board are complied with, 476.
powers of justices between master and apprentice preserved, 477.
the indenture,
forms of, 260.
forms of assignment of, 261.
to be allowed by justices of the county into which, as well as of county from which, apprentice is bound, 315.
not to be allowed by justice following same trade as intended master, 315.
where to be allowed by justices of two different counties, one justice of each county acting together is sufficient, 436
in boroughs to be allowed by one county and one borough justice, 437.
whether delivery up of the indenture discharges apprentice, 318.
made under seal of corporations of guardians valid, 437.
register
of apprentices bound by overseers to be kept, 284.
inspection of, 285.
to be evidence in case of loss of indentures, 285.
assignment of indentures to be registered, 285.
form of, 286.
notice to be given to overseers of parish into which apprentice is bound, 315.
may be assigned to a new master with consent of justices, 258.
assignment, how to be carried out, 258.

APPRENTICE—*continued.*
assignment or discharge of, justices' consent necessary, 317.
even if only temporary, 318.
penalty for not obtaining, 318.
limit of age,
under nine years' old not to be bound, 250, 316.
under fourteen years not without parents' consent, 250.
over fourteen years not without his own consent, 250.
not to be bound for more than eight years, 250.
not to be bound to continue as, after the age of twenty-one, 249.
cost of maintenance and clothing may be recovered from the master of, by distress, 257.
may be discharged when master unable to employ or maintain, 258.
how to be disposed of on master's removal out of county, 316.
master of becoming insolvent, provisions of the Bankruptcy Act as to, 259.
where premium paid does not exceed 5*l.* the covenant to maintain is to terminate within three months of the master's death, 254.
within three months of master's death, justices may order apprentices to serve residue of their term with the widow, 255.
if no application is made or justices refuse, apprenticeship to be at an end, 256.
neglect to properly maintain, a misdemeanour, 257.
penalty for, 257.
master illtreating, penalty for, 263.
application of fine, 263.
appeal against, 263.
provisions of 32 Geo. III. c. 57, only to apply to apprentices living with their master, 257.
appeals against apprenticeship orders, 260.
settlement of, 174.
none gained unless provisions of 56 Geo. III. c. 139, are complied with, 316.
entitled to settlement through deed not indented, 241.
And see SETTLEMENT—APPRENTICESHIP.

ARTIFICER,
becoming chargeable, wages of not paid in cash may be recovered by overseers, 399.
definition of in Truck Acts, 399.

ASSESSMENT
to poor rate for one year necessary to gain settlement by occupation, 479.

ASSESSMENT—*continued.*
where limited by private Acts, if average price of corn exceeds that fixed by the Act, may be increased notwithstanding the limit, 274.
what deductions are allowable, 538.
principles of,
in case of board school, 82.
breweries and tied houses. 536.
canals, 39, 43.
docks, 52, 537.
gasworks, 57.
mine, 532.
navigable rivers, 46.
public-house, 535.
railways, 66.
railway refreshment room, 535.
racecourse, 78, 535.
sewage works, 83.
tramways, 97.
of tithes, 88.
to police rate,
of property not liable to poor rate, 388.
mode of, 388.
notice to be given to persons affected, 388.
persons affected may inspect, 388.
penalty for refusing inspection, 388.
appeal against, 389.
notice to be given to receiver, 389.
or to person affected, 389.
what relief may be given, 390.

ASSESSOR
to be appointed to assess property not liable to poor rate for purposes of police rate, 388.
remuneration of, 388.

ASSISTANT OVERSEER,
appointment of, 333.
in rural parishes, 334.
in metropolis, 334.
in urban districts and boroughs, 116.
by boards of guardians before Local Government Act, 1894...335.
authority of Local Government Board to order appointment of, 464.
mandamus to appoint, whether it lies, 336.
quo warranto does not lie for, 336.

ASSISTANT OVERSEER—*continued.*
to give security, 334.
to whom to be given, 334.
to be given to guardians, 338.
may be required to give to churchwardens, 338.
when appointed under Local Government Act, 1894...338.
security, how affected by change of salary, 339.
how sureties may be discharged, 339, 340.
disqualifications for, and attaching to office of, 336.
cannot be appointed guardian or parish councillor, 336.
master of workhouse cannot be, 337.
relieving officer cannot be, 337.
appointed collector of rates, effect of, 336.
cannot be appointed overseer, 336.
powers of, 334.
duties of, 337.
can perform all duties of overseer, 337.
is an overseer within Parliamentary Voters Registration Act, 337.
may sign a rate, 337.
is entitled to have access to all books in possession of overseers, 330, 337.
servant of the inhabitants of the parish, 494.
salary to be paid to, 333.
how to be raised, 334.
dismissal of, 336.
by Local Government Board, 336, 467.
balance of union monies found due from, how recovered, 467.
embezzlement by, 337.
how described in an indictment, 338.
payment for votes at election of, indictable, 336.
penalty on, for purloining goods, 494.
for disobeying guardians or justices, 494.

ATTORNEY
for parish officers may give notice of appeal against removal order, 204.

AUDIT
of overseers' accounts, 216.
of union officers' accounts, 465.
to be held quarterly, 465.
by whom to be held, 466.
of accounts of receiver of metropolitan police, 381.

AUDITOR,
definition of, in Poor Law Acts, 500.

AUDITOR—*continued.*
parish,
election of, 406.
notice to be given of, 406.
form of notice, 406.
who may vote at, 406.
who to conduct, 406.
poll may be demanded, 407.
to be taken by ballot, 407.
how poll to be conducted, 407.
in case of equality of votes, 407.
list of elected, to be delivered to churchwardens, 408.
penalty for making incorrect return, 408.
when and where election is to take place, 408.
number to be elected, 411.
mode of election, 412.
qualification of, 412.
to audit accounts twice a year in presence of vestry clerk, 412.
books to be produced to, 412.
refusing to produce books to, a misdemeanour, 413.
to sign accounts when audited, 413.
may add remarks, 413.
authority of Local Government Board to order appointment of, for unions, 464.
accounts of union officers to be produced to, quarterly, 466.
guardians accounting to, appointed under a local Act, must also account to one appointed by Local Government Board, 466.
to disallow illegal payments by overseers, 493.

B.

BAIL
may be taken by police officers in cases of petty misdemeanour at night, 379.
regulations as to, 380.

BALANCE
of money due to union from parish officer how recovered, 467.

BALLOT,
voting by, at poll of vestry illegal, 328.

BANK OF ENGLAND,
money paid, for land for building a workhouse, to infant trustee, &c., to be paid into, 505.

BANKRUPTCY
of master, effect on apprentices, 259.

BASTARD. *See* ILLEGITIMATE CHILD.

BEGGAR,
penalty on, for soliciting alms in public, 356.

BENEFICIAL OCCUPATION,
premises must be capable of, to have rateable value, 528.

BIRTHS,
register to be kept of, 514.
settlement by birth. *See* SETTLEMENT.

BISHOP,
chaplain of workhouse not removable by, 467.
registered places of worship to be certified to, 299.

BOARD OF AGRICULTURE,
powers of Tithe Commissioners now vested in, 513.

BOARD SCHOOL,
rateability of, 81.

BOND
given as security under Local Government Board Rules exempt from stamp duty, 491.

BOOKSTALL,
on station, who rateable for, 77.

BOROUGH,
appointment of overseers in, 4.
council of may appoint, 4.
justices of to appoint, 4.
justices of same powers in relation to overseers' accounts as county justices, 297.
appeal against audit of overseers' accounts by justices of, where to be brought, 298.
not having separate court of quarter sessions, appeal from justices of to lie to county quarter sessions, 355.
appeal to quarter sessions of against removal order, 190.
indentures of apprenticeship in, by whom allowed, 437.
workhouse of, situate outside boundaries of, to be within jurisdiction of, 463.
definition of, for franchise purposes, 432.
right of franchise in extended to 10*l.* occupiers, 423.
necessary qualification for, 423.
no person to vote for county in respect of property conferring vote for, 421.
being counties of themselves, provision as to possession and residence of freeholders voting for, 426.

BOROUGH COUNCIL,
appointment of overseers by, 4, 116.

BORROWING POWERS
of guardians subject to control of Local Government Board, 443.
overseers or guardians may borrow from Public Works Loan Commissioners for certain purposes, 478.

BOX
for custody of registers of births to be provided, 518.
custody of, 518.

BREWERIES
with tied houses, assessment of, 536.

BRICKFIELD,
rateability of, 62.

BRIDGE,
tolls of, rateability, 92.

BROKER
levying distress to give copy of charges, 322.

BROTHEL. *See* DISORDERLY HOUSE.

BUILDING SOCIETY,
when member of may gain settlement by estate, 200.

BUILDINGS
purchased for purposes of poor relief to be conveyed to overseers, 342.
to be held by them as a body corporate,
of parish, notice to quit, 349.
if tenant refuses to quit, possession to be given to overseers, 348.

BURGESS
not to vote for boroughs unless resident, 427.
exclusion of, from franchise if created since March 1st, 1831, unless by birth or servitude, 427.

BURGLARY
into workhouse may be described as dwelling-house of guardians, 510.

BURIAL GROUNDS,
rating of, 29.

C.

CANALS,
rateability of, 39
basis of rateability, 39.
tolls of, not rateable *per se*, 91.

CANALS—*continued.*
buildings in connection with, how rated, 43.
leased to another company, rating of, 44.
principles of assessment, 43.
mode of assessment, 39.
assessment under special Acts, 40.
what deductions allowable, 43.
for repairs of docks in one parish, 43.
extending through several parishes, how rated, 41.

CASUAL PAUPERS,
money found on may be given to guardians, 362.
casual wards to be supplied for in every union, 447.

CASUAL POOR,
definition of, 140.
cannot be removed, 140, 265.
cost of maintaining, 140.

CEMETERIES,
rateability of, 46.

CERTIORARI
to quash appointment of overseers, when applicable, 3.
to remove appointment of overseers, 3.
does not lie to remove proceedings of justices in relation to audit of overseers' accounts, 298.
not to be allowed to remove justices' order without a recognizance of 50*l.* to prosecute, 207.
to remove justices' order, costs of, 207.
when judgment of quarter sessions on removal order is reviewable by, 157.
not necessary to remove case under the Summary Jurisdiction Acts, 207.
indictment for keeping disorderly house not to be removed by, 237.
whether it lies to inquire into order of ejectment from parish buildings, &c., 349.
to remove orders of Local Government Board into High Court, 498.
orders removed, to remain in force till quashed, 498.
must be applied for within twelve months of notice of the order, 498.
only means of objecting to order of Local Government Board, 498.
order of Local Government Board may be quashed by, in part only, 498.
notice of application for, to be given to Local Government Board, 499.

CERTIORARI—continued.
to remove orders of Local Government Board, &c.—*continued.*
Local Government Board may show cause against, 499.
recognizance to be entered into by party applying for, 499.
if order declared legal Local Government Board may recover costs, 499.

CESTUI QUE TRUST,
settlement of by estate, 128.
right of to vote, 421.

CHAIRMAN
of vestry, how appointed, 325.
incumbent of parish is *ex-officio*, if present, 325.
powers of, as to taking a poll, 325.

CHANCELLOR OF THE DUCHY
of Cornwall, may convey lands of the Duchy for a workhouse, 503.
of Lancaster, may convey lands of the Duchy for a workhouse, 503.

CHAPEL,
registration of Protestant, 299.
minister of registered, exempt from serving as overseer or in the militia, 300.
exempt from church and poor rates if exclusively appropriated to religious worship and no rent received for, 50, 435.
letting pews in, does not make rateable, 436.

CHAPLAIN
of workhouse removable summarily by Local Government Board and not by bishop, 467.

CHARGEABILITY,
notice of must be given to guardians twenty-one days before removal order is effected, 483.
omission to send notice of, not a good ground of appeal against removal order, 484.
what notice should state, 484.

CHARITABLE INSTITUTIONS,
rateability of, 37, 47.
no distinction between public and private, 48.
application of revenue immaterial, 48.
objects of, may be rateable, 49.
officers of, may be separately rateable for occupation of parts of, 49.
residence in confers no settlement, 303.
may confer status of irremovability, 3.

CHARITABLE USES,
land held for, may be conveyed by trustees for purposes of building a workhouse, 503.
land acquired for parochial purposes is acquired for, 504.
CHARITY SCHOOL,
rateability of, 82.
exemption of from house tax, 287.
CHILDREN,
putting out of, as apprentices, 1, 2.
to be supported by parents who are able to work, 12.
refusal to maintain, penalty for, 357.
must be wilful, 357.
a continual offence, 113.
relief given to, considered as given to father, 473.
relief given to father not considered as given to, 473.
goods, &c., of parents deserting, may be seized, 192.
warrant of justices to seize, 192.
husband bound to maintain wife's, born before marriage, 475.
even if illegitimate, 114.
to relief impotent parents, 112.
liable to maintain mother, 114.
in workhouses not to be educated contrary to parents' religion, 442.
settlement of, 123.
place of birth *primâ facie* place of settlement, 132.
take settlement of father, 124.
age of nurture, 139.
age of emancipation, 139.
unappealed order for removal of parent no effect on settlement of emancipated, 144.
order of removal of father confirmed on appeal conclusive against all his children, 145.
names and ages of to be inserted in removal order, 149.
CHURCH,
exemption of from poor and church rates, 50, 435.
letting pews in does not make rateable, 436.
publication of poor rate in, 210.
notice of vestry meeting to be affixed to door of, 323.
jury lists to be affixed to door of, 368.
CHURCH RATES,
certified places of worship exclusively appropriated to public worship and for which no rent is received exempt from, 435.
CHURCHWARDENS
to be overseers *ex officio*, 2.
office may be held jointly with that of overseer, 2, 6.
no longer overseers for rural parishes, 2, 229.

CHURCHWARDENS—*continued.*
clergyman exempt from serving as, 169.
Dissenter appointed, may act by deputy, 168.
liability on contracts, 13.
to publish poor rate in church, 210.
to sign declaration at foot of poor rate, 540.
form of declaration, 542, 548.
to distrain for non-payment of poor rate, 105.
accounts of. *See* OVERSEER; ACCOUNTS.
cannot as justice make removal order, 208.
where no, powers of overseers, 229.
to sign notice of vestry meeting, 323.
ex-officio member of vestry, 409.
to hold elections of vestrymen, 406.
may summon rate collectors to assist at, 406.
duties of with regard to adoption of Vestries Act, 1831...404, 405.
list of elected vestrymen and auditors to be returned to, 408.
penalties on for violation of Vestries Act, 1831...406.
copies of apportionment, &c., of tithe to be deposited with, 513.
And see OVERSEER.

CLERGYMAN
exempt from serving as juryman, overseer, &c., 169.
of parish,
ex-officio member of select vestry, 409.
chairman *ex-officio* of vestry meeting, 325.
absence of does not invalidate meeting, 325.
to sign notice of vestry meeting, 323.
may visit workhouse by order of justices, 251.
to perform funeral service over drowned person, 288.
fee for so doing, 289.
copy of apportionments of tithe to be deposited with, 513.
marriage register books to be supplied to, 519.
to deliver quarterly certified copies of marriage register to superintendent registrar, 521.
when marriage register book filled to deliver one copy to superintendent registrar and to keep duplicate, 521.
to permit searches of marriage register, 522.
to give certified copies of, 522.
fees payable for, 522.

CLERK
of corporation may vote at vestry meeting, 353.

CLERK TO GUARDIANS,
authority of Local Government Board to order appointment of, 464.
not entitled as of right to office of superintendent registrar, 516.

CLERK OF THE PEACE,
duties of in regard to juries, 367.
agreement to treat union as one parish for settlement and rating purposes to be filed with, 454, 455.

COLLEGE,
rateability of buildings of, 97.

COMMISSIONERS OF WOODS AND FORESTS
may convey lands for purpose of building a workhouse, 503.

COMMON,
rights of, not rateable *per se*, 79.
rateable if coupled with an interest in the soil, 79.
right of may confer a settlement, 126.

COMMON FUND,
how parishes are to contribute to, 450.
where union is treated as one parish for settlement purposes poor to be relieved out of, 454.

COMPENSATION
of officers deprived by dissolution of union, 452.

CONSIDERATION
for purchase of estate, what necessary to confer settlement by estate, 197.
where not wholly in money, 197.
evidence to show, 199.

CONSTABLE,
township always has a, 166.
apothecaries exempt from serving as, 184.
Dissenter appointed may act by deputy, 168.
protection of against actions in respect of distress warrants, 279.
duties of with regard to prosecution of disorderly houses, 235.
overseers may prosecute disorderly houses in lieu of, 332.
expenses of, in conveying poor person to gaol to be paid by county, 239.
of extraparochial place, to bury drowned persons, 288.
penalty for neglecting to do so, 290.
penalty on for neglect of duty, 263.
application of fine, 263.
appeal against, 263.
refusing to arrest rogues and vagabonds guilty of neglect of duty, 361.
penalty on for neglect of duty under Vagrancy Act, 363.
penalty for hindering, in executing Vagrancy Act, 363.
And see POLICE.

CONTRACTS,
liability of overseers on, 13.
land let under void, who rateable for, 15.
for goods for relief purposes, penalty on person having management of poor entering into, 469.
whether overseer may enter into, 310.
payments by overseers on invalid, not to be allowed in accounts, 468.
relating to relief, invalid unless conformable to rules of or sanctioned by Local Government Board, 468.
judgment quashing order of Local Government Board to have no effect on existing, 500.
by guardians should be under seal, 468, 469.
exceptions, 468, 469.
with individual guardians void, 469.
under Local Government Board Rules not liable to stamp duty, 491.
of receiver of Metropolitan Police, 383.

CONVEYANCE,
who may make, to guardians for the purpose of building a workhouse, 503.
form of under 5 & 6 Will. IV. c. 69...511.

CORPORATIONS,
officers of municipal to have powers of justices, 116.
voting by, at election of guardians, 460.
may vote at vestry meeting by clerk or secretary, 326, 353.
may sell land, &c., for use as workhouse, 111.
may convey lands for a workhouse, 503.
may sell lands to receiver of Metropolitan Police, 383.
in case of disagreement, value to be assessed by jury, 383.
mandamus to, to pay poor rate, 106.

COSTS
of appeals,
general powers of quarter sessions as to, 488.
of appeal against removal order, 155, 188.
may be awarded to successful appellant, 205.
to be paid by losing union, 488.
recovery of from guardians, 488.
of appeal against poor rate, 223, 546.
may be paid out of rates, 224.
of settlement appeals, 187.
may be recovered by distress, 188.
defect in judgment or order may be remedied without, 206.

COSTS—*continued.*
of appeals—*continued.*
of distress, where amount does not exceed 20*l.*, 320.
for poor rate not exceeding 20*l.*, 376.
if excessive are levied, damages to be treble amount recoverable summarily, 321.
of recovery of poor rate, how payable, 106.
of prosecuting persons refusing to work, how payable, 357.
to be allowed to prosecutors under Vagrancy Act, 362.
how payable, 362.
of prosecuting persons absconding and leaving families chargeable, how payable, 359.
of prosecuting disorderly house, 235.
of prosecuting parish officers for neglect, 263.
of prosecution in felony and certain misdemeanours, 373, 374.
how paid, 375.
of prosecuting master for illtreatment of apprentice or servant, 263.
of proceedings for penalties under 4 & 5 Will. IV. c. 76... 496.
of maintenance orders, 113.
of *certiorari* to remove justices' order, 207.
of witnesses at Local Government inquiry, 439.
Local Government Board may recover, of showing cause against *certiorari*, 499.
mode of recovery, 499.
of application to High Court concerning purchase-money of land for building a workhouse paid into Bank of England, 506.

COUNTY,
limitation of voting for, in respect of life estates, 419.
right of voting for, extended to leaseholders, 420.
no person to vote for, in respect of freehold conferring a vote for a borough, 421.
right of trustees and mortgagees to vote for, 421.
voters for, need not be assessed to land tax, 421.

COUNTY COUNCILS,
may borrow from Public Works Loan Commissioners for certain purposes, 478.

COUNTY COURT,
proceedings may be taken in to recover relief given by way of loan, 475.

COUNTY FUND,
payment of expenses of making jury lists out of, 370.

COUNTY RATE,
payment out of, of costs of prosecution of felonies and certain misdemeanours, 374, 375.
inspection of, 387.
penalty for refusing, 387.

CROWN,
property of, rateability, 30.
house occupied by servants of, in respect of their offices, rateability, 32, 33.
lands of
may be taken by overseers to set poor to work, 110, 341, 402.
consent of Treasury as to, 402.
may be conveyed for a workhouse, 503.

D.

DEATHS,
register of to be kept, 514.

DEDUCTIONS,
to be allowed to owner rated instead of occupier, 346.
landlord compounding for rates entitled to full amount of, 538.
what allowable,
tenant's rates and taxes, 527.
drainage and sewage rates, 538.
directors' salaries, 539.
land tax, 538.
repairs and insurance, 539.
tenant's profits, 539.
tithe commutation rent-charge, 538.
water rate, 538.
voids and losses of rent not, 539.
in case of canals, 43.
where canal is leased to another company, 44.
in case of cemetery company, 47.
docks, 52.
gasworks, 58.
market tolls, 96.
navigable rivers, 46.
railway, 67.
tithes, 88.
waterworks, 102.

DEVISEE,
settlement of, by estate, 128.

DIOCESE,
copies of apportionments, &c. of tithe to be deposited with registrar of, 513.

DIRECTORS,
whether deduction of salaries of, allowed in assessment of companies' profits, 539.

DISORDERLY HOUSES,
unlicensed places of entertainment in London or Westminster deemed, 233.
method of prosecution of keeper of, 235.
who deemed to be keeper of, 237.
notice of to be given to overseers as well as to constables, 332.
keeper of to be bound over to answer indictment, 237.
indictment not to be removed by *certiorari*, 237.
penalty on persons keeping, 234.
recovery of penalties, 238.
limitation of actions against, 238.
reward to informer, 235.

DISSENTERS
appointed to parochial office may act by deputy, 168.

DISTRESS
for poor rate, 105.
penalty in default of, 105.
what goods may be taken, 107.
second may be levied if first insufficient, 107.
may be levied for amount of last effective rate notwithstanding notice of appeal given, 278.
power to distrain generally, 225.
appeal against, 225.
may be levied in another parish or county to that for which it is due, 306.
may be levied on occupier's goods though owner liable for, 347.
procedure, 106.
costs of where amount does not exceed 20*l.*, 376.
no action lies against justice for issuing warrant of, 225.
actions against overseers for irregularity in warrants of, 226.
for charges of maintaining poor person too sick to be removed, 267.
for recovery of expenses of removing woman and child from lying-in hospital, 245.
for the cost of maintenance and clothing of parish apprentice, 257.
for costs in settlement appeals, 188.
for rent of parish allotments, 418.
for penalties under Poor Law Amendment Act, 496.
committal in default of, 496.
costs of, 496.

DISTRESS—*continued.*
on overseers not paying police rate, 386.
if insufficient arrears may be relevied, 386.
no appeal lies against issue of warrant for, 112.
no appeal till actually levied, 226.
when person distrained on may replevy, 225.
costs of where amount does not exceed 20*l.*, 320.
fees for levying, 322.
copy of charges to be delivered by broker on distraining, 322.
if excessive costs taken treble amount so taken recoverable as damages, 321.
levying for excessive costs landlord not liable unless he personally levied, 321.

DISTRICT AUDITOR,
appointment of for audit districts, 218.

DISTRICT COUNCIL,
appointment of overseers by in urban district, 10.
rateable in respect of sewage farm, 27.

DIVIDED PARISHES,
appointment of overseers for, 167, 354.

DOCKS,
mode of ascertaining rateable value, 52.
floating, not rateable *per se*, 56.
not rateable for harbour dues, 54.
wharves leased to other companies, rateability of, 54.
warehouses in connection with docks, rateability of, 52.
extending into more than one parish, how rateable, 51.
when prohibited from making profits, rateability of, 51.
rateable if occupation beneficial, 50.
destination of profits immaterial, 50.
railways connected with, 74.
assessment of, 537.

DOWER,
settlement by estate of tenant in, 127.

DRAINAGE,
of wastes, disputes as to rateability of lands improved by, 213.
who to hear, 213.

DROWNED PERSONS,
burial of, by overseers, &c., 288.
expenses of burial, 288, 289.
to be repaid by county treasurer, 287,
saving of rights of lord of manor as to burial of, 291.

E.

EASEMENT,
owner of, not liable to be rated for, 16.
occupier of, not liable to be rated for, 16.
of land in connection with, may be rated, 21.
user of gas mains may amount only to, so as not to be rateable, 20, 58.

EJECTMENT
from parish buildings or lands, 349.
from allotments, 349.

ELECTION
of guardians, how to take place, 459, 460.

EMANCIPATION,
age of, is sixteen in all cases, 139.

EMIGRATION,
ratepayers may raise money on security of rates for purpose of assisting poor persons in, 477.
meeting of ratepayers, how held, 477.
now done by parish meeting, 477.
consent of Local Government Board must be obtained, 477.
recovery of expenses from person receiving money for purpose of, and not emigrating, 478.

EMPLOYER,
definition of, in Truck Acts, 399.

ENTERTAINMENT,
places of, licence, 234.

EVIDENCE,
rate-book is *primâ facie* evidence as to validity of poor rate, 210.
rent actually paid not conclusive, of rateable value, 530.
of place of birth, 133.
baptismal register of itself no evidence, 133.
attestation of soldier no evidence of, 133.
certified copy of birth, death, or marriage sealed at General Office to be received without further proof, 522.
of legitimacy, 133.
of illegitimacy, 135.
wife or husband cannot give, of non-access, 135.
proof of marriage, 138.
reputation of marriage, 115.
non-access, who competent to prove, 115.
register of parish apprentices to be, if indentures lost, 285.

EVIDENCE—*continued.*
mark of overseers on parish property to be sufficient, of property, 309.
of official character of receiver of Metropolitan Police, 382.
recitals in confirmed agreement as to or apportionments of tithe are, of the matters recited, 513.
of chargeability, 150, 266.
as to settlement, what must be proved, 142.
order of removal unappealed against, how far conclusive, 144.
order of removal appealed against and confirmed, how far conclusive, 145.
what necessary to prove settlement by payment of rates, 173.
to show amount of consideration for purchase of estate to confer settlement, 199.
as to paupers, how taken, 140.
penalty for refusing to give, 141.
examination of prisoner by justice as to, receivable as, 351.

EXCHANGE
of parish, &c., property, 507.
of workhouse, 507.
form of, 512.

EXECUTOR
of deceased parent, liability of, to parish for children, 114.
of deceased mother not bound to maintain illegitimate child, 481.
settlement of, by estate, 129.
if assessed in respect of deceased's property may vote at vestry, 326.
proceedings against, of receiver of Metropolitan Police, 382.

EXTRAPAROCHIAL PLACE,
appointment of overseers for, 9.
if a township, 166.
annexation of, to adjoining parish, 9, 212.
joining of, to union, 448.
pauper cannot be removed to, 153.
illegitimate child born in, settlement of, 134.
burial of drowned bodies found in, 288.

F.

FATHER,
liability to maintain children, 112, 114.
relief given to children considered as given to, 473.
relief given to, not considered as given to son, 473.

FELONY,
person convicted of, disqualified from holding parochial office, 467.

FERMENTED LIQUOR,
penalty for introducing, into workhouses, 492.
master introducing, into workhouses, 493.

FERRY,
rateability of, 93.

FISHING RIGHTS,
rateability of, 81.

FORMS,
indentures of apprenticeship, 260.
assignment of indentures, 261.
register of parish apprentices, 286.
poor rate, 547.
declaration at foot of, to be signed by overseers, 548.
notice for election of vestrymen and auditors, 406.
conveyance under 5 & 6 Will. IV. c. 69...511.
exchange of parish or union property, 512.
transfer of security, 512.
birth certificate, 525.
marriage certificate, 525.
death certificate, 526.
registrar's return of births and deaths, 527.

FRANCHISE,
county,
limitation on the right of, for, in respect of life estates, 419.
right of, for, extended to leaseholders and occupiers in certain cases, 420.
voters for, need not be assessed to land tax, 421.
trustees and mortgagees have right of, only if actually in receipt of rents, 421.
no person to exercise right of, for, in respect of property conferring right of, for borough, 421.
borough,
right of, in, extended to 10*l*. occupiers, 423.
necessary qualifications for, 423.
to gain in, premises may be occupied in succession, 424.
provision as to residence and possession of freeholders voting for boroughs being counties, 426.
burgesses and freemen not to exercise unless resident, 427.
no person to exercise unless registered, 422.

FRANCHISE—*continued.*
time of occupation or possession necessary to entitle person to be registered, 422.
exception in case of descent, 422.
right of, in case of joint occupiers, 424.
for purposes of, payment of rates by owner deemed payment by occupier, 326.
occupier may demand to be rated so as to gain, 424.
claim, how and when to be made, 425.
whether excusal from payment of rate, disqualifies, 305.
registered voters may inspect and take extracts from poor rate gratis, 544.
parochial relief disqualifies for, 428.
what deemed to be, 429.
medical relief does not disqualify for, 429.
penalties on officers for offences in respect of, 431.

FRAUD,
person convicted for, disqualified from holding parochial office, 467.

FREEHOLD,
limitation of right of voting for counties in respect of, when life estate, 418.

FREEMEN
of boroughs not to vote for, unless resident, 427.
exclusion of, from franchise if created since March 1st, 1831, unless by birth or servitude, 27.

G.

GALEE
of mine in Forest of Dean is rateable, 65.

GASWORKS,
rateability of, 56.
principles on which to be rated, 56.
rateable at rent for which works would let, 57.
what apparatus is to be included in valuation, 58.
machinery in, is rateable, 59.
mode of assessment, 57.
deductions, 58.
when user of gas mains amounts to easement only, 58.
where pipes in different parishes, 57.

GENERAL REGISTRY OFFICE,
establishment of, 514.
indexes of registers to be kept at, 522.

GENERAL REGISTRY OFFICE—*continued.*
fees for searches at, and copies, 522.
certified copy given at, to be received as evidence without further proof, 522.

GENERAL RULE,
definition of, in Poor Law Acts, 500, 501.
of Local Government Board, what deemed to be, 461.

GRAND JURY,
at quarter sessions, qualification to serve on, 366.

GRANDPARENTS
liable to maintain grandchildren, 112, 114.

GROSS VALUE,
definition of, 528.
appearing in rate-book, rating authority bound by, on appeal against rate, 528.

GUARDIANS OF THE POOR,
definition of, in Poor Law Acts, 501.
creation of boards of, 456.
Local Government Board to choose number to be elected, 456, 457.
may be elected for single parishes, 458.
qualification for office, 456.
assistant overseer cannot be, 336.
mode of election, how regulated, 456.
resignations and vacancies on boards of, 456, 457.
election of, to be in writing, 458.
owners and occupiers may vote for, 459.
proxies at elections of, 459.
petition against, how regulated, 457.
incorporation of, 510.
powers as a corporation, 510.
no power to act except as a board, 458.
three to form a quorum, 458.
rules for the guidance of, to be made by Local Government Board, 440.
notice of orders or disallowance of orders of Local Government Board to be sent to, before coming into force, 441.
publicity to be given to such orders, 441.
penalty for neglecting to give publicity, 441.
powers of, exercisable with approval of Local Government Board now transferred to parish council, 112.
with consent of Local Government Board may agree to treat union as one parish for voting and settlement purposes, 454.
agreement with whom filed, 454, 455.
effect of agreement, 454, 455.

GUARDIANS OF THE POOR—*continued.*
consent of two-thirds necessary for dissolution or alteration of union, 453.
to direct relief of the poor, 11.
only authority except a vestry to give relief, 472.
except in case of emergency, 472.
under special circumstances may delay operation of Local Government Board regulations as to relief of able-bodied poor, 471.
report thereof to be made, 471.
departure from Local Government Board Rules as to out-door relief in case of emergency, 471.
with consent of Local Government Board may temporarily hire land and buildings for purposes of relief, 445.
control of workhouses by, 457.
to supply casual wards subject to approval of Local Government Board, 447.
must be summoned to show cause against relief being granted to impotent poor by justices, 449.
powers of, to assist emigration, 477.
apprentices,
parish apprentices to be bound by, 250.
to prosecute masters neglecting apprentices, 257.
substitution of, for justices in management of parish apprentices, 314.
to make indentures under corporate seal, 437.
vagrants, &c.,
may obtain maintenance orders, 113.
to pay costs of prosecuting vagabonds, &c., out of rates, 357.
to pay costs of prosecuting persons leaving their families chargeable out of rates, 359.
removal,
removal of paupers by, 304.
by consent may remove without an order, 483.
order of, may be obtained by, 483.
application by, for order of, 140, 148.
Local Government Board may authorize, to obtain and defend orders of, 140, 148.
notices by, in respect of orders of, may be signed by clerk, 483.
order of, directed to, 149.
order of, obtained by, to be addressed to those of parish chargeable, 483.
service of notice of chargeability and grounds of, 152.
appealing against order of, may examine pauper as to settlement, 484.

GUARDIANS OF THE POOR—*continued.*
removal—*continued.*
to pay costs of appeal against order of, if unsuccessful, 488.
property, &c.,
acquisition of parish property by, 308.
overseers' powers with regard to lands transferred to, 111.
may hire land for workhouse, 111.
purchase of land by, for workhouse, 111.
who may convey land to, for purpose of building a workhouse, 503.
may buy, sell, or exchange workhouses with consent of Local Government Board, 111, 506.
may erect new workhouse out of proceeds of sale of the old, 507.
consent of majority of ratepayers to, 508.
with consent of majority of, Local Government Board may order workhouses to be built or enlarged, 444.
expenses, how raised,
to manage lands taken for relief purposes and parish allotments subject to Local Government Board Rules, 509.
power of sale or exchange of lands vested in, 343.
property which before 5 & 6 Will. IV. c. 69, had to be conveyed with consent of Poor Law Commissioners to vest in, 511.
contracts,
contracts by, should be under corporate seal, 468.
exceptions, 468.
contracts by board with individual guardians void, 469.
payments by, contrary to Poor Law Amendment Act or Local Government Board Rules to be disallowed, 492.
appointments by,
of overseers, 4.
notice of appointment of overseers to be given to, 4.
of parish officers under direction of Local Government Board, 463.
must be under seal, 465.
of assistant overseer before Local Government Act, 1894... 335.
to take security from assistant overseer, 338.
of visiting committees for workhouses, 251.
of registrars and superintendent registrars by, 56.
payment of, 519.
to form districts for registration purposes, 516.
to pass union accounts quarterly, 465.
to whom they are to render them, 466.
balance of union money due from, how recovered, 467.
form of order for payment by, upon treasurer, 466.

GUARDIANS OF THE POOR—*continued.*
to pass union accounts quarterly—*continued.*
may borrow from Public Works Loan Commissioners for certain purposes, 478.
may combine with overseers to defend appeals against poor rate, 219.
may pay out of poor rate costs of making maps or plans confirmed by tithe commissioners for parochial purposes, 513.
on representation of, new valuation of union or parish may be ordered, 542.

H.

HARBOUR,
rateability of, 50.
anchorage and beaconage tolls in, 55.
occupation of, 55.
railway connected with, 75.

HEIR-AT-LAW,
settlement of, by estate, 128.

HIGH COURT,
qualification of jurors for, 366.
appeal to, against a removal order, when permitted, 157.
recognizance to prosecute *certiorari* to remove order of justices to be certified to, 207.
no authority to amend a rate, 277.
orders of Local Government Board may be removed into, 498.

HIGHWAY,
occupier liable to repair *ratione tenuræ* exempt from poor rate, 16.
payment of rate confers no settlement, 200.
on indictment for stealing material for repairing, property to be laid in surveyor, 373.

HIRING,
abolition of mode of gaining settlement by, 478.

HOSPITAL,
exemption of from house tax, 237.
rateability of, 37, 47.
admission into, provided for infectious diseases or isolation purposes not to disqualify for franchise rights, 429.
lying-in, must obtain a licence, 243.
what deemed to be, 244.
provisions as to, 243—249.
keeper of, to cause women admitted to be examined whether they are married or single, 247.
birth in, confers no settlement, 134, 302.
penalty for not complying with the Act, 248.

HOUSEHOLDER,
overseer must be, 6.
what constitutes a, 6.

HOUSE TAX,
buildings exempt from, 287.

HUSBAND,
relief given to wife considered as given to, 473.
not bound to maintain wife guilty of adultery, 357.
deserting wife, who becomes chargeable, deemed a rogue and vagabond, 359.
wife must become actually chargeable, 359.
liable to maintain children of wife born before marriage whether legitimate or illegitimate, 114, 475.
settlement of, by marriage, 130.
of executrix or administratrix, 130.
may gain settlement by estate of wife which would not confer settlement on wife if unmarried, 130.
if received into workhouse above the age of sixty not to be separated from wife, 461.
may prove or disprove marriage, 138.
incompetent as witness to prove non-access, 115.

HYPOTHETICAL TENANT
to be assumed for all premises to arrive at rateable value, 529.
owner in occupation to be considered as, 529.
competing tenant to be assumed, 529.
assumed to be yearly tenant, 531.
even when yearly tenant is impossible, 531.
school board to be considered as in case of school, 82.
sewers, 83, 84.
waterworks, 102.

I.

ILLEGITIMATE CHILD
of unmarried woman, maintenance of, 114.
mother deserting, deemed a rogue and vagabond, 359.
born to wife before marriage, husband bound to maintain, 114, 475.
relief granted to, considered as granted to mother, 482.
mother while unmarried bound to maintain, 481.
executor of mother not bound to maintain, 481.
settlement of,
takes and retains mother's settlement, 482.
primâ facie place of birth is, 434, 482.
bears mother's settlement until sixteen years, or until he acquires settlement in his own right, 134.

ILLEGITIMATE CHILD—*continued.*
settlement of—*continued.*
where mother's settlement cannot be ascertained, 246.
born in lying-in hospital, gains settlement in mother's parish, 134, 245.
woman delivered of, in lying-in hospital, notice to be given to overseers, 247.
whether he takes mother's settlement acquired by marriage, 135.
age of emancipation, 139.

IMPOTENT POOR,
overseers may build houses for, 110.
to be relieved by parents or children, 112.
justices in petty sessions may order relief by parents and children, 350.
relief to, by order of justices, 449.

INDICTMENT
for stealing parish goods, &c., property how laid in, 307.
against assistant overseer for embezzlement, 338.
against overseer for neglecting to account, what it must allege, 466.

INDOOR RELIEF,
register of persons in receipt of, to be kept, 473.

INDUSTRIAL SCHOOL,
rateability of, 38, 81.

INHABITANT,
meaning of, 14.
at vestry meeting to have from one to six votes according to rateable value of his property, 326.
votes of, at vestry meeting, if jointly rated, 326.
coming into parish since last rate, may vote at vestry if liable to be rated next time, 328.
on show of hands at vestry meeting only one vote, though entitled to more on a poll, 326.
if qualified, may vote at poll of vestry, though not present at meeting, 327.
voting by, at election of vestrymen and auditors, 407.

INQUIRY,
by Local Government Board, attendance of witnesses at, 439.
penalty for giving false, or refusing to give evidence at, 439.

INSURANCE,
of premises, deduction allowed in respect of, 539

INVESTMENT,
of purchase-money paid for land for building a workhouse to the same uses the lands were subject to, 505.

IRREMOVABILITY,
by residence for one year, 140.
residence in a charitable institution may confer, 303.

J.

JEWS,
secretary of synagogues to be supplied with marriage register, 519.
registration of marriages of, 520.
duplicate copy of registration book to be kept, 521.

JOINT TENANCY
confers settlement by estate, 127.
right of franchise in case of, 424.

JURIES,
qualification to serve on, 366.
lists of qualified persons to be made by overseers, 368.
or by vestry clerk in parish where that office exists, 368.
lists to be revised by justices in September, 369.
notice of revision to be given, 369.
no name to be inserted by justices unless notice has been given to party affected, 369.
lists of persons qualified to be affixed to church door, 368.
original lists to be kept by overseers, 368.
which may be perused by inhabitants, 368.
expenses of making, how paid, 570.
penalty on overseers, for neglecting to make lists, 370.
or wilfully omitting names from, 370.
clergyman exempt from serving on, 169.

JUSTICES,
definition of, in Poor Law Acts, 501.
Powers and Duties of,
(1.) with regard to overseers,
appointment of overseers by, 4, 10.
must appoint jointly, 9.
discretionary power of, in appointing, 10.
to appoint in case of casual vacancy, 5, 218.
of borough, same right of appointing, as county justices, 4, 116.
to have exclusive right of appointing, in boroughs, 116.
in rural parishes appointment transferred to parish council, 4.
penalty on, for failing to appoint, 117.

JUSTICES—*continued.*
POWERS AND DUTIES OF—*continued.*
(1.) with regard to overseers—*continued.*
appointment of assistant overseer by, 333.
no discretion as to, 335.
to audit overseers accounts, 216.
repeal of powers of, as to audit where district auditor appointed, 217.
to administer oaths as to correctness of overseers' accounts, 215.
to commit overseers refusing to account, 106, 217.
audit of accounts in special sessions, 296.
of borough, powers of, in relation to overseers' accounts, 297.
appeal against, where to be brought, 297.
(2.) with regard to poor rate,
to assent to making of poor rate, 1.
allowance of poor rate by, 540.
a purely ministerial act, 541.
mandamus to compel allowance, 541.
may make rate in aid, 104.
with consent of overseers may excuse payment of rates on ground of poverty, 28, 305.
to levy poor rate in townships, 167.
warrant of, for distress, for, 105.
discretionary power as to issuing, 108.
protection against actions for irregularity in distress warrants, 225, 306.
in quarter sessions to hear appeals against poor rate, 112.
powers of, on hearing, 224.
not disqualified from hearing by reason of being ratepayers in same union, 545.
to hold special sessions for hearing appeals against poor rate, 544.
powers of, at special sessions, 546.
whether disqualified from hearing if ratepayer in interested parish, 209.
(3.) with regard to removal of the poor,
to order removal of strangers renting a tenement of less value than 10*l.* yearly, 122.
what must be adjudicated on application for removal order, 150.
removal order must be signed and sealed by, 152.
judicial discretion of, in making order for, 148.
may supersede order, 152.
when to order removal of poor person, 140.

JUSTICES—*continued.*
Powers and Duties of—*continued.*
(3.) with regard to removal of the poor—*continued.*
not to order removal till person becomes actually chargeable, 265.
disqualification of, for ordering removal, 148.
if also churchwarden, cannot make removal order, 208.
in settlement appeals to award costs, 187.
warrant of, for recovery of costs, 188.
examination of prisoner as to settlement by, 350.
(4.) with regard to parish apprentices,
to consent to apprenticing poor children, 1.
indentures must be approved by, if premium paid, 318.
where indentures to be allowed by justices of two counties, one for each county may act together, 436.
in boroughs indentures to be allowed by one acting for borough and one for county, 437.
consent of, for assigning or discharging apprentices, 318, 358.
discharge of apprentice by, 258.
not to allow indentures if of the same trade as intended master, 315.
assent of, to each entry in register of apprentices, 284.
substitution of guardians for, in management of, 314.
to certify whether Rules of Local Government Board as to, have been observed, 476.
Rules of Local Government Board not to affect powers of, as between master and apprentice, 477.
(5.) with regard to relief of the poor,
relief by, in cases of emergency, 472.
may order medical relief in dangerous cases, 473.
may order relief to impotent poor wholly unable to work, 448.
guardians must be summoned to show cause against relief being given, 448.
what the order must state, 449.
in petty sessions may order relief of impotent poor by parents or children, 350.
to order immediate relief in cases of medical necessity or improper food in workhouses, 252.
to commit able-bodied poor refusing to work, 105.
may attach wages of able-bodied poor in payment of relief given as a loan, 475.
visiting, of gaols to grant certificates to enable discharged prisoner to receive relief, 364.
in petty sessions to make maintenance orders, 113.
warrant of, for seizing goods, &c., of parents deserting their children, 192.

JUSTICES—*continued.*
POWERS AND DUTIES OF—*continued.*
(6.) with regard to workhouses,
may visit and examine workhouses, 250.
to certify complaints with regard to quarter sessions, 251.
quarter sessions to remove complaints, 251.
to visit places not being workhouses in which poor are lodged by contract, 251.
to visit workhouses to see if rules are observed, 251.
to visit workhouses whether regulated by Local Government Board or not, 462.
have no power to repeal Rules of Local Government Board for management of, 444.
may grant search warrants for spirits in prisons or workhouses, 231.
(7.) miscellaneous duties of,
to revise jury lists in September, 369.
powers of, on revision, 369.
in petty sessions to audit accounts of union officials if no auditor has been appointed, 466.
can order ejectment from parish building notwithstanding claim of right, 349.
to give possession to overseers of parish houses or land where tenants refuse to quit, 348, 349.
what orders of Local Government Board to be sent to clerks of, 446.
JURISDICTION OF,
county, residing in boroughs may make orders on county matters at their houses, 194.
for boroughs may carry out certain acts though not of the quorum, 242.
officers of corporate boroughs to have same powers as, 116.
where not more than six, in a borough, appeals to lie to county quarter sessions, 355.
not disqualified by being ratepayers from enforcing poor laws, 208.
may remedy defects in judgments or orders on appeal, 206.
no order of two or more, to be quashed for not stating one to be of the quorum, 238.
protection of, against actions in respect of distress warrants, 279.
appointment of metropolitan police magistrates, 377.
for what counties they may act, 377.
And see sub. tit. APPEAL; POOR RATE—APPEAL; QUARTER SESSIONS; SPECIAL SESSIONS.

L.

LAND. *See* POOR RATE.

LAND TAX,
county voters need not be assessed to, 421.

LEASEHOLD,
right of voting in respect of, for counties in certain cases, 420.

LICENCE,
distinction between exclusive licence to use premises and exclusive occupation, 21.
to lay water pipes, not rateable, 98.
with power to mine, rateable, 65.
for places of public entertainment in London or Westminster, 233.
to be obtained for lying-in hospital, 243.
form of and stamp, 244.
not to be granted for sale of spirits in prison or workhouse, 230.

LICENSEE,
occupation as, does not confer settlement, 131.

LIFE ESTATE
confers settlement by estate, 127.

LIGHTHOUSE,
exempt from poor rate, 94.

LOCAL GOVERNMENT BOARD,
substitution of, for Poor Law Commissioners and Poor Law Board, 438.
powers of inquiry by, 439.
attendance of witnesses at, 439.
inspectors of, have right to attend local boards, &c., 443.
summons issued by, how served, 492.
rules and orders of,
how made, 439.
notice of, and of disallowance of, to be sent to overseers and guardians, 441.
what orders to be sent to clerks of justices, 440.
not to come into force till fourteen days after notices given to overseers, 442.
except an order suspending an officer, 442.
inconsistent with previous order has effect of altering previous order, 439.

LOCAL GOVERNMENT BOARD—*continued.*
rules and orders of—*continued.*
ratepayers may inspect, 441.
fee to be paid for copies of, 441.
have the force of law, 498.
certiorari only means of questioning, 498.
objection cannot be taken to, on return to *mandamus*, 498.
removable by *certiorari*, 498.
remain in force until quashed, 498.
no *certiorari* to remove unless applied for within twelve months of notice of order, 498.
notice to be given to, of application of *certiorari*, 499.
grounds of application to be stated, 499.
may show cause against *certiorari*, 499.
if order declared legal, may recover costs, 499.
if order quashed, notice to be given to affected unions, 499.
order may be quashed in part only, 498.
penalty for disobeying orders of, 496.
instruments and contracts under Local Government Board Rules not liable for stamp duty, 491.
rules of, affecting more than one union to be deemed general rules, 461.
powers of with regard to relief of the poor,
to control administration of poor law, 439.
to make, suspend, or alter rules for, 440.
has no power to legislate, only to regulate, 470.
to regulate outdoor relief to able-bodied poor and their families, 470.
cannot order relief in individual cases, 440.
powers in relation to poor law officers and unions,
establishment of unions by, 447.
classification of poor in workhouse by, 448.
powers of, with regard to election of guardians, 456.
may assent to guardians agreeing to treat union as one parish for settlement and rating purposes, 454.
agreement to be filed with, 454.
may dissolve or separate parishes from unions, 452.
only with consent of two-thirds of guardians, 453.
how to deal with affected parishes, 453.
before dissolving union to hold inquiry, 452.
may divide unions for outdoor relief only, 452.
to direct overseers to appoint parish officers to fix duties and mode of appointment of parish officers, 463.
to regulate security to be given by, and salary of parish officers, 463.

LOCAL GOVERNMENT BOARD—*continued.*
powers in relation to poor law officers and unions—*continued.*
authority of, to order appointment of rate collectors and assistant overseers, 463.
of auditor and clerk to guardians, 464.
approval of, to appointment of registrars of births, deaths and marriages, 516.
may remove parish officers summarily for misconduct, 467.
may remove assistant overseer, 336.
may confer on borough council appointment of overseers, 116.
powers relating to union and parish property and workhouses,
powers of unions relating to building workhouses, relief of the poor, and borrowing powers to be controlled by, 443.
no rules to be made for workhouses without sanction of, 444.
may make rules for government of workhouses, 461.
power to vary rules in force, 461.
not to force any inmate of workhouse to attend any particular religious service, 442.
not to authorize education of poor law child contrary to parents' religion, 442.
consent of, to guardians and overseers purchasing or disposing of workhouses, 111, 507.
with consent of majority of, ratepayers or guardians may order workhouses to be built or enlarged, 444.
by order under seal may require any workhouse to be enlarged or altered, 447.
guardians to supply casual wards subject to approval of, 447.
guardians with consent of, may temporarily hire land or buildings for relief of the poor, 445.
lands taken for relief purposes and parish allotments to be managed subject to rules of, 509.
may call for accounts of estates held in trust for relief of the poor, 490.
consent of, for raising money to assist poor in emigration, 477.
may authorize guardians to obtain and defend removal orders, 140.
on representation of guardians may order revaluation of union or parish, 542.

LODGER
not liable to be rated, 19.
whether goods of, distrainable for rates, 107.

LODGING-HOUSE
suspected of concealing rogues, &c., may be searched, 364.

LONDON,
unlicensed places of entertainment in, deemed disorderly houses, 233.
And see METROPOLIS.

LORD OF THE MANOR
may pay accustomed fee for interring bodies found washed ashore, 291.
consent of, to overseers building houses for poor on waste, 110.

LUNATIC,
property of, may be conveyed by committee for purpose of building a workhouse, 504.
money paid to the committee of, for lands of, sold for building a workhouse, to be paid into the Bank for investment, 505.

LUNATIC ASYLUMS,
rateability of, 47.

LYING-IN HOSPITAL. *See* HOSPITAL.

M.

MACHINERY,
what is rateable, 59.
to be taken into account as enhancing the value of real property, 59.
of manufacturing premises, 60.
of mine, 62.

MAINTENANCE,
refusal to maintain wife or children, penalty, 356.
must be wilful, 357.
of illegitimate children, 474, 481.
of wife's illegitimate children by husband, 114.
of unmarried woman's illegitimate children, 114.
order of,
may be obtained by guardians, 113.
requisites of, 115.
on relations of poor person, 112.
what relations to be charged, 113.
penalty for disobedience to, 113.
suspension of order, recovery of cost, 152.
order for cost of, under suspended order of removal not to be made *ex parte*, 271.
of sick person under suspended order of removal, 267.
costs of, who liable for, 268, 270.
recovery of, 268.

MANDAMUS,
lies to compel old overseer to deliver parish books to new overseer, 218.
will lie to compel overseers to hand over rate-books to assistant overseer, 330, 337.
will not lie to enforce overseer to permit inhabitants to inspect parish rate, 213.
whether, lies to compel overseer to grant inspection of accounts, 217.
to compel justices to allow a poor rate, 541.
to justices to issue warrant of distress for rates, 108.
to a corporation to pay poor rate, whether it lies, 106.
will not lie to compel union or parish to receive paupers, 155, 182.
will not lie to justices to make removal order in particular case, 148.
on return to, objection cannot be taken to order of Local Government Board, 498.
when judgment of quarter sessions on removal order reviewable by, 157.

MANUFACTORY,
machinery in, what rateable, 60.
stopped, rateable as warehouses of machinery, 60.
strike in, whether to be considered in assessing, 61.

MARKET,
tolls of, whether rateable, 95.

MARRIAGE,
register of, to be kept, 514.
who to keep registers of, 519, 520.
penalty for giving false information as to, for registration, 523.

MARRIED WOMAN,
liability to maintain children and grandchildren, 114.
deserting children after she has been deserted cannot be convicted as rogue, 360.
may convey land for the purpose of building a workhouse, 504.

MEDICAL RELIEF,
receipt of, not to disqualify for exercise of franchise, 429.
may be ordered by justices in dangerous cases, 252, 473.

MEETING
of overseers, when to be held, 2.
penalty for not attending, 2.
of ratepayers to raise money for purpose of assisting poor in emigrating, 477.
of vestry. *See* VESTRY.

MEETING HOUSE
exempt from church and poor rate if exclusively used for religious worship and no rent received for, 435.
letting pews in, does not make rateable, 436.

METROPOLIS,
vestries in, abolition of, 323, 331.
borough councils in, constituted as overseers, 333.
to appoint assistant overseers for, 334.
police magistrate in, for what counties they may act, 377. *See* POLICE MAGISTRATE.
establishment of metropolitan police district, 378.
schedule of parishes in, 391.
establishment of police for, 377. *See* POLICE.
valuation list in, 542.

METROPOLITAN POLICE. *See* POLICE.

MINES,
what sort are rateable, 61.
other than coal, formerly not rateable, 61.
tin, lead, copper, special rule of Rating Act, 1871, as to, 61.
in several parishes, how rateable, 65.
licensee with power to mine, who uses licence, rateable, 65.
galee of, in the Forest of Dean is rateable, 65.
gross value of, how assessed, 532.
how value may be reckoned in new district where no other in district, receipts may be considered rateable value of, is what it would let for, 62.
surface land, rateable, 63.
exhausted or unworked, not rateable, 63.
when worked at a loss, 63.
machinery in, to be taken into account, 62.

MILITIA,
teachers and ministers of registered places of worship exempt from serving in, 300.

MILLS,
stopped, rateable as warehouses of machinery, 60.

MINISTER
of registered place of worship exempt from serving as overseer or in militia, 300.
licensed, may visit workhouses to give religious instruction, 442.
who considered licensed, 442.
Nonconformist, attending workhouse inmates is an officer of the union, 501.

MORTGAGE
given as security under Local Government Board Rules exempt from stamp duty, 491.

MORTGAGEE
right to vote only if actually in receipt of rents, &c., 421.
settlement of, by estate, 129.

MORTGAGOR,
right of, to vote, 421.
settlement of, by estate, 129.

MORTMAIN,
lands conveyed to overseers for use of poor, whether affected by Statute of, 345.
whether Statute of, applies to land conveyed for purpose of building a workhouse, 504.

MOTHER,
liability of, to maintain children, 112.
to be maintained by children, 114.
of illegitimate children, liability of, 114, 481.
executor of, not bound to maintain illegitimate children of, 481.
refusing to maintain bastard, liable under Vagrancy Act, 356.

N.

NASSABOROUGH,
justices of borough of, may determine removal appeals, 201.

NATIONAL SCHOOLS,
rateability of, 81.

NAVIGABLE RIVERS,
when rateable, rateable in same manner as canals, 45.
owners of navigation only rateable if they are also owners of soil, 44.
except for cuts, weirs and locks, 44, 45.
in more than one parish, how rated, 45.
who to be rated for toll-house on, 46.
drowned person found in, burial of, 288.

NON-ACCESS,
husband or wife incompetent to prove, 115.

NONCONFORMIST MINISTER
attending workhouse inmates is an officer of the union, 500.

NOTICE
of overseers' appointment to be given to guardians, 4.
of appeal against removal order,
practice as to, 202.

NOTICE—*continued.*
of appeal against removal order—*continued.*
by whom to be given, 203.
validity of, 204.
service of, 205.
may be signed by clerk of the guardians, 483.
of chargeability,
what it must state, 484.
must be sent twenty-one days before a removal is effected, 483.
grounds of removal must be stated in, 434.
omission to send not a good ground of appeal against removal order, 484.
of appeal against poor rate, 545.
of grounds of appeal, 546.
to be given to Local Government Board of application for *certiorari*, 499.
grounds to be stated in, 499.
to be given by Local Government Board to union affected if order of, quashed, 500.

O.

OATH,
definition of, in Poor Law Acts, 501.

OCCUPATION
must be exclusive to render occupier liable for rates, 20.
by servants or agents, who liable for rates, 17.
of wires, must be exclusive to render telegraph company liable for rates, 84.
by telegraph posts, 84.
what is sufficient to gain a settlement by renting a tenement, 395.
as licensee, does not confer settlement, 131.

OCCUPIER,
definition of, 15, 16.
rateability,
must have an interest in land to be rated, 15.
beneficial occupation to be rated, 24.
test of beneficial occupation, 24.
lands must be of value to occupier and not to public generally, 26.
of unused land, not liable to be rated, 16.
liable to repair highways *ratione tenuræ*, exempt from poor rate, 16.
only liable when occupation is exclusive, 20.

OCCUPIER—*continued.*
distinction between exclusive occupation and exclusive licence, 21.
liable to be rated for servants' occupation, 17.
of part of undivided tenement liable to be rated for whole, 19.
of flat, whether liable, 19.
tenement let to two different, may be rated as one, 528.
of several distinct tenements, liable to be rated for each separately, 18.
successive, liable only for proportionate part of rate, 18.
who deemed to be, in case of vaults and graves in cemetery, 47.
of agricultural land, only liable for half the rate in the pound, 528.
not rateable in respect of easements, 21.
of land in connection with easements may be liable, 21.
of land together with right of way rateable for right of way, 103.
of charitable institution, rateable, 28.
of buildings used for public purposes, when rateable, 37.
of lands enhanced by tolls, rateable, 91.
of stopped mill with machinery in it is rateable, 61.
of mine, how to be rated, 62.
if worked at a loss, 63.
if unworked or disused, 63.
rateable in respect of surface land, 63.
of bridge connecting two parishes, rateable in both, 92.
of Crown lands is rateable, 30, 33.
of building used as a court of justice, exempt from poor rate, 34.
of land at all times subject to owner's control not rateable, 23.
liable to be rated higher if annual value of land is increased by buildings, 59.
owner may be rated instead of, where rent does not exceed 20*l.* and is not less than 6*l.*, if let for less than a year, or payable at short periods, than 6*l.*, 346.
no owner, not being, to be made liable where franchise depends on rating, 347.
payment of rates by owner deemed to be payment by, for rating purposes, 326.
where owner liable goods of, may be distrained on for rates, 347.
to what amount, 347.
may deduct amount from rent, 347.
if poor rates are paid by landlord, no settlement is gained by, 479.
franchise rights,
franchise in counties extended to, in certain cases, 420.
in boroughs to 10*l.* occupiers, 423.
necessary qualifications for, 423.

OCCUPIER—*continued.*
joint, provisions as to, in respect of franchise, 424.
to gain, successive occupation is sufficient, 424.
may claim to be rated so as to gain, 425.
claim, how and when made, 425.
may vote at vestry though rates are paid by owner, 326.
voting by, at election of guardians, 460.
must have been rated for preceding year, 460.

OFFICER,
definition of, in Poor Law Acts, 501.
of parish or union. *See* PARISH; UNION.

ORDER
OF LOCAL GOVERNMENT BOARD,
notice of, to be given to overseers, guardians, &c., 441.
may be inspected by ratepayers, 441.
inconsistent with previous, has effect of altering the previous, 439.
removable by *certiorari*, 498.
if removed to remain in force till quashed, 498.
certiorari must be applied for within twelve months of notice of, 498.
can only be questioned by *certiorari*, 498.
have all the force of law unless quashed, 498.
objection cannot be taken to, on return to *mandamus*, 498.
may be quashed in part only, 498.
if quashed, notice to be given to unions, &c., affected, 500.
if quashed, not to affect existing contracts, 500.
OF MAINTENANCE,
what relations to be charged, 113.
supension of, 152.
requisites of, 115.
application of guardians for, 113.
how made, 113.
costs of, 113.
disobedience to, 113.

ORDER OF REMOVAL. *See* REMOVAL ORDER.

OUTDOOR RELIEF,
by justices, to impotent poor wholly unable to work, 448.
of able-bodied poor, to be regulated by Local Government Board, 470.
given contrary to regulations unlawful, and to be disallowed, 471.
of which notice has been given if otherwise lawful, not unlawful because given contrary to regulations, 471.

OUTDOOR RELIEF—*continued.*
of able-bodied poor, &c.—*continued.*
under special circumstances overseers or guardians may delay regulations of Local Government Board as to, 471.
report of such delay to be made, 471.
if Local Government Board disapprove, they may fix a day for regulations to come into force, 471.
Rules of Local Government Board may be departed from in case of emergency, 471.
quarterly report of special cases to be laid before Secretary of State, 471.
register of persons in receipt of, to be kept by overseers, 473.
union may be divided for purposes of, only, 452.

OVERSEERS OF THE POOR,
definition of, in Poor Law Acts, 501.
APPOINTMENT OF,
nomination of, 1.
appointment by justices, 1, 4, 9.
when by guardians, 4.
time of appointment, 1, 5, 301.
on casual vacancy, 5, 218.
for townships and villages, 9, 165.
what conditions must prevail, 166.
for extraparochial place, 9.
for divided parishes, 9, 167, 354.
by borough councils, 4.
in rural parishes, 4, 10, 333.
by parish and urban district councils, 4, 10, 333.
by parish meeting, 4.
on casual vacancy in rural parish, parish council to appoint, 5, 218.
in boroughs and urban districts, 4, 116.
borough justices to have exclusive right of appointing in boroughs, 116.
legalized where towns have been separated from parish, 354.
for parish extending into two counties or liberties, 117.
who to be appointed, 1.
number to be appointed, 5.
for what places to be appointed, 8, 9.
must be householder, 6.
may be woman, 6.
may also be churchwarden, 6.
Dissenter may act by deputy, 168.
may be appointed from adjoining parish, 5.
non-resident may be appointed, 333.
only with his own consent, 333.
borough councils in London constituted, 333.

OVERSEERS OF THE POOR—*continued.*
who exempt from, or incapable of being appointed, 6, 7.
assistant overseer cannot be, 336.
clergyman exempt, 169.
minister of registered place of worship, 300.
teachers and schoolmasters, 300.
apothecaries, 184.
appointment of person exempt, effect of, 3.
how discharged, 9.
irregular appointment of, 2.
objection to appointment, when to be taken, 2.
appeal to quarter sessions against, 3.
who may appeal against appointment, 3.
certiorari to remove appointment, 3.
refusal to serve as, 10.
cannot be appointed assistant overseer, 336.
churchwardens no longer, *ex officio* in rural parishes, 229.
when to meet, 2.
penalty on, for absence, 2.
Powers and Duties of,
(1.) as to relief of the poor and parish lands,
relief by, 11.
to set able-bodied poor to work, 1, 11.
liability to find work for able-bodied poor, 13.
when to give relief without guardians' order, 11.
no power to give relief except in cases of sudden and urgent necessity, 472.
under special circumstances, may delay operation of Local Government Board Rules as to outdoor relief of able-bodied poor, 471.
report thereof to be made, 471.
may depart from Local Government Board Rules in case of emergency, 471.
may recover wages not paid in cash to workman becoming chargeable, 399.
to keep register of persons in receipt of outdoor relief, 473.
vesting of property in, for purpose of poor relief, 307, 444.
property for relief purposes to be laid in, on indictment, 373.
to mark goods supplied for relief purposes, 308.
such mark to be evidence of ownership, 309.
whether they may supply goods for relief purposes, 482.
penalty against, for paying relief in other than lawful money, 242.
may build houses on the waste for the poor, 110.
may take parish lands to set poor to work, 110.

OVERSEERS OF THE POOR—*continued.*
(1.) as to relief of the poor and parish lands—*continued.*
where no guardians, may sell or exchange parish property, 111.
with consent of vestry, to hire lands for the relief of the poor, 341.
may let parish lands for purposes of relief, 342.
possession of parish houses or lands to be given to, where tenant refuses to quit, 349.
property for relief of the poor only vested in, where rents are solely applicable to parochial purposes, 344.
lands conveyed to, for purposes of poor relief whether affected by Statute of Mortmain, 345.
may inclose Crown lands for purpose of providing allotments, 402.
may provide land for relief of the poor to the extent of fifty acres, 400.
with consent of lord and commoners may inclose waste land up to fifty acres, 400.
incorporation of, 343.
powers of, in relation to lands vested in, 343, 344.
buildings and land purchased for poor relief to be conveyed to and held by, as body corporate, 342.
recovery of parish allotments by, summarily, 417.
recovery of rent for parish allotments by, summarily, 417.
what persons may convey property to, for the purpose of building a workhouse, 503.
of parish not in a union may sell, purchase, or exchange workhouse with consent of Local Government Board, 507.
may erect new workhouse with proceeds of sale of the old, 507.
consent of majority of ratepayers, 508.
powers with regard to lands transferred to guardians, 111.
where no guardians to manage lands taken for relief purposes and parish allotments subject to Local Government Board, 509.
(2.) as to making and levying poor rate,
to levy poor rate, 1.
to publish poor rate in church, 210.
to sign declaration at the foot of poor rate, 540.
form of declaration, 542, 548.
to permit inspection of rate by inhabitants, 211.
to give copies if demanded, 211.
penalty for refusing, 211.
consent of, to excusal of poor rate on ground of poverty, 28, 305.

OVERSEERS OF THE POOR—*continued.*
(2.) as to making and levying poor rate—*continued.*
may credit ratepayers for excess paid where rate is subsequently reduced, 277, 282.
succeeding, to levy arrears to reimburse predecessors, 106, 226.
to distrain for non-payment of poor rate, 105.
actions against, for irregularity in distress warrants, 226.
notice of appeal against poor rate to be served on, 223.
notice of appeal to special sessions against poor rate to be given to, 545.
may combine with guardians to defend appeals against poor rate, 219.
to pay metropolitan police rate out of poor rate, 385.
rate to be paid to the receiver, 385.
who deemed overseers for the purpose of collecting police rate, 386.
may be distrained on, for non-payment of police rate, 386.
in case of default of, occasional may be appointed to levy police rate, 396.
(3.) as to accounts,
how now regulated, 217.
where to account, 2, 215.
to pass union accounts quarterly, 465.
to whom they are to render accounts, 215, 466.
to be verified by oath, 215.
to be kept in books, 215.
to be open to ratepayers' inspection, 215.
fee to be paid for copies of, 216.
whether *mandamus* will lie ordering overseer to allow inspection, 217.
audit of, 216.
when to be submitted to justices, 296.
penalty for neglect, 296.
payments contrary to 4 & 5 Will. IV. c. 76, or to Rules of Local Government Board to be disallowed, 492.
appeal against, 297.
to hand over ascertained amounts to successors, 296.
penalty for neglect, 296.
balance due from, may be recovered as penalty, 218.
appeal against accounts, 112.
abolition of, 219.
penalty for not accounting, 106, 109, 217.
indictment for not accounting, what must be alleged, 466.

OVERSEERS OF THE POOR—*continued.*
(4.) as to parish apprentices,
to apprentice children, 1.
powers of binding parish apprentices transferred to guardians, 250.
of parish into which apprentice is to be bound, notice to be given to, 315.
notice to be given of intended removal by master of parish apprentice, 316.
steps to be taken by, on receipt of notice, 317.
to keep a register of apprentices bound out by them, 284.
penalty for failing to do so, 284.
penalty on, for wrongfully binding apprentices, 316.
(5.) as to juries,
to make lists of persons qualified to serve on juries, 368.
may inspect tax assessments, &c., to complete jury lists, 370.
expenses of, in making jury lists, how paid, 370.
to affix jury lists, with notice of time and place for hearing objections, to church doors, 368.
to produce jury lists at special sessions for revision, 369.
to keep original jury lists, 368.
to permit inhabitants to inspect, 368.
where no, churchwardens to do duties of, in regard to juries, 368.
penalty on, for wilfully neglecting to make or omitting name from list, 370.
(6.) as to removal of the poor,
may employ persons to remove paupers, 304.
formerly had to apply for orders of removal, 148.
to receive persons removed by justices' order, 154, 181.
penalty for refusing, 181.
appeal against penalty, 182.
abandonment of removal order by, 152.
notice to be given to, before discharge from hospital of woman delivered of an illegitimate child, 247.
to cause woman delivered in hospital of a bastard to be examined as to settlement, 248.
goods of, may be distrained for refusing to pay expenses of removal from lying-in hospital, 246.
appealing against removal order may examine pauper as to settlement, 484.
in Middlesex to pay the expenses of conveying poor persons to gaol, 240.
(7.) miscellaneous powers and duties,
to reward persons first giving notice of body being cast on the shore, 288.

OVERSEERS OF THE POOR—*continued.*
(7.) miscellaneous powers and duties—*continued.*
to bury drowned persons cast up on the shore in the churchyard of the parish, 288.
penalty for neglecting to do so, 290.
to pay the costs of prosecution of disorderly houses, 235.
penalty for neglecting to do so, 235.
may prosecute disorderly houses in lieu of constables, 332.
definition of, for electoral purposes, 432.
notices to, in respect of electoral matters, how served, 433.
to put on poor rate any occupier claiming for purpose of franchise, 425.
claim, how and when to be made, 425.
to pay over funds to successors, 2.
mandamus to, to deliver parish books to successors, 218.
balance of union money found due from, how recovered, 467.
to sign notice of vestry meeting, 323.
to provide minute-book for use of vestry, 325.
appointment of parish officers by, under direction of Local Government Board, 463.
may pay costs of appeals out of rates, 224.
may borrow money from Public Works Loan Commissioners for certain purposes, 478.
notice of orders or disallowance of orders of Local Government Board, to be given to, 441.
publicity to be given to such orders by, 441.
penalty for neglecting to give publicity, 441.
powers of, where no churchwardens, 229.
liability on contracts, 13.
power to bind successors on contracts, 13.
liability for debts of predecessors, 226.
payments by, on invalid contracts not to be allowed on the accounts, 468.
PENALTIES ON,
penalty on, for neglect, 12, 228, 263.
application of fine, 263.
appeal against, 263.
penalty on, for disobeying guardians or justices, 494.
penalty against for breach of Lying-in Hospitals Act, 248.
penalty on, for purloining goods, 495.
description of, in indictment for stealing goods, &c., vested in, 307.

OWNER
not in general liable for poor rate, 14.
in case of double occupancy, 15.

OWNER—*continued.*
not liable to be rated for houses let to tenants excused on ground of poverty, 28, 305.
of easement not rateable in respect thereof, 16.
of mine, not rateable for royalties, 64.
unless paid in raw ore, 64.
when liable to be rated for occupation of servant, 17.
liable to be rated if demise is void, 15.
for unlet house occupied by caretaker, 17.
where house is let in lodgings, 15.
in case of small tenements, 15.
retaining control over whole tenement, who liable to be rated, 20.
becoming liable for poor rate may appeal as if he were occupier, 219.
vestry may rate instead of occupier where rent does not exceed 20*l.* nor is less than 6*l.*, if let for less than a year or payable at shorter periods than three months, 346.
if liable for rates, may vote at vestry, 347.
paying rates instead of occupier not entitled to vote at vestry, 326.
rated in respect of small tenements under 32 & 33 Vict. c. 41, has no right to attend vestry, 352.
liable for rates, goods of occupier may be distrained for, who may deduct amount from rent, 347.
payment of rates by, deemed payment by occupier for franchise purposes, 326.
not being occupier, not to be rated where franchise depends on rating, 347.
may vote at elections of guardians, 459.
necessary steps to be taken by, to entitle to vote for guardians, 459.
proxy of, at elections of guardians, 459.
receiver of rent may be rated as, 347.
of house, let to ambassadors, to pay police rate, 386.
of tithe rent-charge, rateable, 514.
may be regarded as a possible tenant, 529.
may appeal against rates, 347.

P.

PARENTS
deserting their children, goods and lands of, may be seized, 192.

PARISH,
what is, within the meaning of 43 Eliz., 8.
definition of in Poor Law Acts, 501.
for electoral purposes, 432.

PARISH—*continued.*
institution of civil parishes, 8.
created under Church Building Acts, Vestries Act (58 Geo. III. c. 69) does not apply to, 324, 330.
annexation of extraparochial place to, 9.
appointment of overseers for, 8.
for divided parishes, 9.
when impossible to appoint overseers for whole of, 166.
comprised in borough, who to appoint overseers for, 4.
extending into two counties or liberties, effect of, 117.
poor, rate in aid may be made for, 104.
formation of, into unions, 447.
contribution of, to common fund of union, 450.
union may be treated as one, for purposes of settlement and rating, 454, 455.
contributions from, then to cease, 455.
separation of, from union by Local Government Board, 452.
only with consent of two-thirds of the guardians, 453.
affected by such separation, how to be dealt with, 453.
audit of accounts of, 412, 413.
documents of, safe custody of, 228.
lands of,
overseers may take, to set poor to work, 110.
may be let for purposes of poor relief, 342.
power of sale and purchase, who may exercise, 506.
powers of Local Government Board with regard to, 506, 507.
buildings of,
notice to quit, 349.
if person occupying refuses to quit, possession to be given to overseers, 348, 349.
vestry to publish yearly a list of lands and charities of, 413.
officers of,
definition of, in Poor Law Acts, 501.
appointment of, by overseers and guardians, 463.
security to be given by, 464.
salaries payable to, 464.
paid officers of, may be summarily removed by Local Government Board, 467.
no office in, may be held by person convicted of felony, fraud, or perjury, 467.
penalty for furnishing for their own profit goods, &c., for purposes of relief, 482.
penalty on, for disobeying justices or guardians, 494.

PARISH COUNCIL,
appointment of overseers by, 4, 10.
to appoint new overseer to fill casual vacancy, 5, 218.
may appoint assistant overseer, 334.
whether to take security from, 338.
parish property vested in, 373.
lands vested in overseers in rural parishes to be vested in, 342.
may let lands vested in, or allotments, 342.
custody of parish documents by, 329.
what powers of guardians transferred to, 112.
transfer to, of powers of vestry as to allotments, 415.
transfer of public and charitable property to, 490.
transfer to, of powers of selling, &c., parish lands, 503, 506.

PARISH MEETING,
appointment of overseers by, 4.
on casual vacancy, 218.
where no parish council, lands vested in overseers to be vested in, 342.
may raise money on security of poor rates to assist poor in emigrating, 477.
where consent of majority of ratepayers is needed for any act dealing with parish property, consent may be given by, 507.

PARISHIONER
may appeal against appointment of overseer, 3.

PARLIAMENT,
police magistrate disqualified from sitting in, 384.
receiver of Metropolitan Police disqualified from sitting in, 384.
abstract of births, deaths and marriages to be laid before, annually, 515.
And see FRANCHISE.

PARSON,
liability to be rated, 14.
And see CLERGYMAN.

PAWNBROKER,
penalty on, for receiving in pawn goods supplied for use of poor, 308.

PAYMENTS,
illegal, by overseers or guardians to be disallowed, 492.

PEDLAR,
penalty on unlicensed, 356.

PENALTY
on overseers
for absence, 2.
for not accounting, 109, 217.
balance due from, may be recovered as, 218.
for refusing inspection of rate-books, 211.
for disobeying justices and guardians, 494.
for neglecting to make or omitting names from jury lists, 370.
for failing to keep register of parish apprentices, 284.
appeal against, 285.
for refusing to receive removed poor, 181.
for neglecting to publish Local Government Board Orders, 441.
for neglecting to pay costs of prosecuting disorderly house, 235.
for neglecting to remove bodies of drowned persons, 290.
application of, 290.
appeal against, 290.
for not complying with provisions of Lying-in Hospitals Act, 284.
for failing to notify overseers of drowned person, 289.
on churchwarden for violation of Vestries Act, 1831...406.
on constable for neglect, 263.
application of fine, 263.
appeal against, 263.
for neglect to enforce Vagrancy Act, 363.
on person hindering constable arresting rogues and vagabonds, 363.
on justices failing to nominate overseers, 117.
on rogues and vagabonds, &c.
on able-bodied poor refusing to work, 109.
for refusing to work in workhouse, 309.
for drunkenness in workhouse, 310.
for disobedience to maintenance order, 113.
for obtaining relief by false statement, 357.
on rogues and vagabonds, 359.
on incorrigible rogues, 360, 363.
for keeping disorderly house, 234.
for disturbing public worship, 169.
on discharged prisoner loitering on his way to place of settlement, 365.
for wrongfully binding or receiving parish apprentice, 316.
for discharging or assigning apprentice without justices' sanction, 318.
for discharging apprentice or removing him without notice, 317.
information must be exhibited within three months, 317.

PENALTY—*continued.*
on retailer taking pledge for debt for spirits, 230.
application of, 230.
for retailing spirits in prison or workhouse, 230, 231, 492.
application of, 230, 231.
for failing to exhibit in workhouses provisions of Acts relating to introduction of spirits, 494.
on keeper for not complying with provisions of Lying-in Hospitals Act, 284.
for absconding from workhouse with parish property, 309.
for receiving in pawn or buying property provided for relief purposes, 308.
defacing marks thereon, 308.
how to be applied, 308.
on officers purloining goods, 495.
of parish or union furnishing goods for his own profit for relief purposes, 482.
for disobeying orders of Local Government Board, 496.
on witness refusing to give, or giving false, evidence at Local Government Board inquiry, 439.
for refusing to give, or giving false evidence as to settlement, 141.
on publican harbouring police, 379.
on police magistrate or receiver canvassing at parliamentary election, 184.
on officers for breach of duty in respect of parliamentary registration, 431.
for misconduct at election of vestryman and auditors, 407.
for making incorrect returns of elected vestrymen or auditors, 408.
for detaining or destroying vestry books, 328.
recovery and application of, 329.
for giving false information as to births, marriages, or deaths for registration, 523.
for refusing to register or damaging the register, 523.
for refusing inspection of the county rate, 387.
of the poor rate, 544.
of vestry minute-book, 411.
of vestry accounts, 411.
recovery and application of,
under 43 Eliz., how to be levied, 117.
how to be applied, 118.
under 4 & 5 Will. IV. c. 76, how recovered, 497.
leviable by distress, 496.
committal in default of, 496.
costs of proceedings for, 496.

PENALTY—*continued.*
recovery and application of—*continued.*
under 4 & 5 Will. IV. c. 76—*continued.*
if over 5*l.* defendant may appeal to quarter sessions, 497.
when appeal is to be brought, 498.
application of, 497.
under Metropolitan Police Act, 1829, application of, 391.
under Parish Apprentices Act, 1816, recovery of, 319.
application of, 319.
appeal against, 319.

PERJURY,
person convicted for, disqualified from holding parochial office, 467.

PERSON,
definition of, in Poor Law Acts, 502.

PIER,
rateability of, 56.

PIPES,
rateability of water, 98.
of gas, 56, 57.

POLICE,
rateability of stations of, 34.
officers of, not rateable in respect of their rooms at police station, 35.
metropolitan,
establishment of, 377.
establishment of Metropolitan Police District, 378.
schedule of parishes in, 391.
appointment of receiver for, 380.
salaries of, to be regulated by Secretary of State, 381.
rewards, &c., may be granted to, 381.
salaries to be paid by receiver, 381.
regulations for, to be made by police magistrates, 378.
dismissal, &c., of, by police magistrates, 379.
may take bail in cases of petty misdemeanour, 379.
powers of, as to arrest, 379.
penalty on publican for harbouring, 379.
accounts of, what to specify, 387.
overseers to levy rate for purposes of, out of poor rate, 385.
rate not to exceed eightpence in the pound, 385.

POLICE MAGISTRATES,
appointment of, for metropolis, 377.
for what counties they may act, 377.

POLICE MAGISTRATES—*continued.*
oath to be taken by, 378.
to make regulations for management of Metropolitan Police, 378.
police may be dismissed, &c., by, 379.
to countersign receiver's drafts, 381.
to issue warrant to overseers to levy police rate, 385.
rate not to exceed eightpence in the pound, 385.
may inspect county rates, 387.
to appoint assessor to assess property not liable to poor rate for purposes of police rate, 388.
disqualified for sitting in parliament, 384.
for canvassing at parliamentary elections, 384.
penalty for, 384.

POLICE RATE
payable out of poor rate by overseers, 385.
not to exceed eightpence in the pound, 385.
overseers to collect, in the same manner as poor rate, 385.
on non-payment of, overseers may be distrained upon, 386.
in default of sufficient distress, arrears may be relevied, 386.
landlord to pay in respect of premises occupied by ambassadors, &c., 386.
property not liable to poor rate to be separately assessed for purpose of, 388.
collection of, from persons not liable to poor rate, 389.

POOR,
what persons are entitled to relief, 11.
classes to be relieved, 1.
able-bodied to be set to work, 1, 13.
on strike not to be relieved, 11.
who to direct the relief of, 11.
person may be excused payment of poor rate, 305.
whether disenfranchised thereby, 305.
And see ABLE-BODIED POOR; RELIEF OF THE POOR.

POOR LAW,
definition of, 502.

POOR LAW COMMISSIONERS,
establishment of, 438.
transfer of powers of, to Local Government Board, 438.
rules of, how received in evidence, 439.
See LOCAL GOVERNMENT BOARD.

POOR RATE
a statutable fund, 13.
definition of, in Poor Law Acts, 502.

POOR RATE—*continued.*
WHO LIABLE TO BE RATED,
owner not generally liable, 14.
liability of occupier, 15.
occupier must have an interest, 15.
occupier of unused land not liable, 16.
occupier liable to repair highways, *ratione tenuræ*, is exempt, 16.
in case of double occupancy, 15.
where licensee in possession, who liable, 15.
where house let in lodgings, who liable, 15.
in case of small tenements, who liable, 15.
successive occupiers proportionately liable, 18.
occupation by servant, master liable for, 17.
owner of easement not rateable, 16.
occupier of land in connection with easements may be rateable, 21.
who liable in case of a flat, 19.
lodger not liable, 19.
occupier of part of undivided tenement liable to be rated for whole, 19.
occupier of several distinct tenements may be rated for each separately, 18.
owner may be liable for, in case of small tenements, 346.
occupier in borough may demand to be put on rate so as to gain franchise, 424.
claim, how and when made, 425.
parson may be rated for tithe, 86.
owner of tithe rent-charge, 514.
occupier not liable in respect of property subject at all times to owner's control, 23.
occupation must be beneficial, 24.
test of beneficial occupation, 24.
lands must be of value to occupier, not to public generally, 26.
special circumstances reducing value to particular occupier no ground for exemption, 27.
dock trustees, whether rateable, 25, 26.
who liable in respect of mining and quarrying agreements, 22.
excusal of payment on ground of poverty, 28.
IN RESPECT OF WHAT PROPERTY PERSONS ARE RATEABLE,
schools, different kinds of, 81.
board schools, 27, 38.
reformatory schools, 38.
industrial schools, 38.
property held for public purposes, 26, 37.

POOR RATE—*continued.*
In respect of what property, &c.—*continued.*
property held for public purposes by a public body having no net annual value, 38.
property worked at a loss, 27.
advertising stations, 39.
breweries and tied houses, 536.
canals, 39.
cemeteries, &c., 46.
graves, who liable to be rated for, 47.
charitable institutions, 37, 47.
rights of common and pasture, 79.
aftermath, 80.
grazing rights, 22.
docks, harbours, and piers, 38, 50, 537.
gasworks, 56.
hospitals, 47.
tolls, harbour, 95.
anchorage and beaconage, 95.
market, 95.
lighthouses, whether rateable, 94.
lunatic asylums, 47.
manufactory, 59.
machinery, 59.
moored derricks, 21.
mines and quarries, 22, 61.
mining royalties, 64.
navigable rivers, 44.
plantations and woods, 78.
public-house, 535.
railways, 65.
railway bookstall, 22.
railway refreshment room, 535.
tramways, 96.
telegraphs and telephones, 84.
tolls, 90.
stallage and lairage tolls, 96.
tithes and tithe rent-charge, 85, 514.
allotments or rent in lieu of tithes, 86.
sporting rights, 81.
fishing rights, 81.
sewers, 82.
sewage farm, 27.
outfall sewer, 83.
pumping station, 27, 83.
universities, 97.
ways and wayleaves, 183.

POOR RATE—*continued.*
In respect of what property, &c.—*continued.*
workhouses, 38.
waterworks, 97.
reservoirs, 103.
property exempt from poor rate,
Crown property, 30.
royal parks and palaces, 31.
barracks, 32.
drill-halls, 32.
used partly for Crown and partly for county purposes, 34.
law courts, 34.
police stations, 31, 35.
museums and national institutions, 36.
post-offices, 36.
prisons, 36.
lands exempt by statute, 28, 29.
by private Acts, 29.
churches and chapels, 50, 435.
premises of ambassadors, 36.
lighthouses, 29, 94.
Volunteer storehouse, 29.
Government offices, 31.
county buildings, 31.
voluntary, Sunday, and ragged schools, 29, 81.
universities, whether exempt, 97.
scientific or literary institutions, 29, 82.
easements, 20.
quit rents, 15.
rate limited by statute,
lands vested in Secretary of State for War, 29.
Postmaster-General, 29.
docks, 30.
canals, 30.
burial grounds, 29.
The nature, requisites, and form,
allowance by justices, 540.
deemed made on the day when allowed, 541.
form of, 540, 547.
declaration at foot to be signed by overseers and churchwardens, 540.
otherwise rate bad, 540.
form of declaration, 542, 548.
if not made in proper form, voidable, not void, 542.
title of, to state period for which rate is made, 540.
heading of, 540.

POOR RATE—*continued.*
THE NATURE, REQUISITES, AND FORM—*continued.*
to include names and property of all persons rateable, 540.
publication of rate, 210.
on Sunday after allowance, 210.
to be fixed to church door, 210.
if no church in a public place, 210.
void if not duly published, 210.
republication will not cure original defect, 210.
rate book to be kept by overseers, 227.
public perusal of, 227.
copies of rate, when to be entered in, 227.
production of, *primâ facie* evidence that rate is properly made, 210.
may be inspected by overseers for purpose of compiling poor rate, 370.
inspection of rate, 211, 544.
copies may be taken, 211, 544.
fee to be paid for, 211.
penalty for refusing, 544.
reasonable demand must be made, 211, 212.
mandamus will not lie to compel overseer to give, 213.
penalty for refusing, 211.
who may sue for, 212.
what is "rate for the time being" for franchise purposes, 425.
when deemed to be made, 426.
to be made on an estimate of net annual value, 527.
what is net annual or rateable value, 528.
what deductions are allowed from gross value, 527.
hypothetical tenant to be assumed, 529.
rent paid not conclusive evidence of, 530.
property to be valued as it exists, 531.
estimate to be made of rent payable on tenancy from year to year, 531.
even where yearly tenancy impossible, 531.
premiums representing capitalized rent to be taken into account, 532.
royalties to be taken into account, 532.
if comparison with other hereditaments is impossible, structural value may be considered to arrive at rental value, 533.
trade profits not to be taken into account in estimating value, 534.
unless property cannot be compared with any other, 534.

POOR RATE—*continued.*
THE NATURE, REQUISITES, AND FORM—*continued.*
to be made on an estimate of net annual value—*continued.*
ability to carry on gainful trade on particular premises to be considered, 535.
where there are statutory restrictions on profits, 537.
COLLECTION AND PAYMENT,
what is a valid demand, 106.
demand note, service of, 106.
how demand is to be made, 306.
credit may be given for overpayment, 277.
payment of, by owner deemed payment by occupier for franchise purposes, 326.
non-payment to disqualify from voting at vestry, 353.
poor person may be excused, 305.
collector entitled to rate-books for purposes of, 330.
recovery by distress, 105, 106.
procedure, 106.
where there is remedy by distress, action will not lie for, 106, 306.
what goods may be distrained on, 107.
discretion of justices as to issuing warrant for, 108.
when arrears may be levied, 227.
arrears may be levied by succeeding overseers, 106, 226.
distress may be levied in another parish or county, 306.
distraint on goods of person not named in rate, 107.
amount of last effective rate may be levied, notwithstanding notice of appeal, 225, 278.
if altered on appeal, may be levied in same manner as original, 282.
no appeal against distress until levied, 226.
penalty in default of distress, 105.
power to distrain generally, 225.
distress may be replevied, 109, 225.
APPEAL,
right of, 219.
person not rated cannot, 219.
owner if rated may, 219, 347.
person aggrieved may, 112, 218.
notice of, to be given to overseers, 218.
otherwise appeal to be respited, 218.
where to be brought, 219,
to what sessions to be brought, 220.
meaning of "next sessions," 221.

POOR RATE—*continued.*
APPEAL—*continued.*
what notice to be given, 223.
how to be served, 223.
when and to whom to be given, 279.
grounds of, to be stated in, 279.
to be served on assessment committee, 223.
grounds to be stated to, 223.
if on ground that some other person ought to be rated, notice to be given to such person, 281.
no ground other than stated in notice to be inquired into, 379.
except by consent in open court, 280.
notice no bar to distress for amount of last effective rate, 225, 278.
to special sessions, 277, 544.
on what grounds, 277, 545.
notice of, 545.
to whom to be given, 544—546.
to be given to assessment committee, 544.
rate quashed by, to be allowed to person who has paid as if quashed in quarter sessions, 546.
from special sessions to quarter sessions, notice of objection to be given, 546.
costs may be awarded to successful party, 546.
recognizance to be entered into, 546.
justice not disqualified from hearing by being ratepayer, 209, 545.
rating authority bound by the amount of gross rental appearing in rate books, 278, 528.
evidence of profits not generally admissible on hearing, 535.
may be defended by guardians and overseers, 219.
rate may be amended on, 224.
without quashing, 276.
if quashed new rate to be made, 224.
all proceedings for recovery of may be stopped, 279.
sum assessed to be levied notwithstanding, 276.
if altered on, may be recovered in same manner as original, 282.
if name struck out amount to be repaid, 282.
order for repayment, 283.
if rate reduced credit to be given for the full payment, 277, 282.
when rate to be amended on, 277.
if successful, valuation list to be altered, 277.
costs of, 233.
may be paid out of rates, 224.

POOR RATE—*continued.*
APPEAL—*continued.*
against distress, warrant for, 225.
not till actually levied, 226.
acquisition of settlement by payment of, 171.
costs of prosecuting persons leaving families chargeable to be paid out of, 359.
expenses of prosecutions allowed by court to be paid out of, in places not contributing to county rate, 375.
police rate to be paid out of, 385.
sums borrowed for building workhouses to be charged on, 446.
money may be raised on security of, to assist emigration of poor persons, 477.

POSTMASTER-GENERAL,
lands vested in, under Telegraph Acts partially exempt from poor rate, 29.

POST-OFFICE,
rateability of, 36.

PREMIUMS
representing capitalized rent to be taken into account in estimating rent, 532.

PRISONER
having wife or child may be examined as to settlement by one justice, 350.

PRISONS,
rateability of, 36.
children born in, do not acquire birth settlement, 134, 302, 303.
expenses of conveying poor person to, to be paid by the county, 239.
except in Middlesex, 240.
no licence to be granted for retailing spirits in, 230.
copy of Sale of Spirits Act to be exhibited in, 232.
penalty for omitting, 232.

PROFITS,
rateability of land subject to restriction or prohibition of, 100.

PROSECUTION,
costs of, in felonies and certain misdemeanours to be allowed, 373, 374.
how paid, 375.

PROSTITUTE
guilty of riotous or indecent conduct, penalty, 356.

PROTESTANTS,
all places of worship of, to be registered, 299.

PUBLICAN,
penalty on, for harbouring police, 379.

PUBLIC-HOUSE,
assessment of, 535.
of brewery with tied, 536.

PUBLIC AUTHORITIES PROTECTION ACT,
actions against overseers subject to, 226.

PUBLIC PROPERTY,
rateability of lands, &c., held as, 27, 37, 48.
where premises can have no value, 38.
where premises have a value, 27, 38.

PUBLIC WORKS LOANS COMMISSIONERS,
loans by, to overseers, guardians, and county councils, 478.

Q.

QUAKERS,
registering officer of, to be supplied with marriage registers, 519.
registration of marriages of, 520.
duplicate copies of marriage register to be kept, 521.

QUARRY,
rateability of, 61.

QUARTER SESSIONS,
meaning of "general quarter sessions" in Poor Law Acts, 502.
"general or quarter," 221.
"next sessions," 221.
appeal to,
where only general sessions, 190.
of county from borough not having more than six justices, 355.
by person appointed overseer, 9.
against overseer's appointment, 3.
against poor rate, 112, 219.
against adjudication of settlement, 181.
by overseers against conviction for refusing to receive removed poor, 182.
justices in, may make rate in aid from any parish in the county, 104.
application to, for repayment of excess poor rate, 283.
cannot order relief, 12.
cannot make removal orders, 147.
incorrigible rogues to be sentenced by, 360, 363.
may order goods of parents deserting their children to be sold, 192.

QUARTER SESSIONS—*continued.*
all registered places of worship to be certified to, 299.
decision of, as to form of appeal final, 206.
powers of, as to costs of appeals, 188, 488.
qualification of grand and petty jurors at, 366.

QUORUM
of vestry, what is, 410.

QUO WARRANTO
does not lie against overseers, 4.
or assistant overseer, 336.
whether it lies against guardians, 457.

R.

RACECOURSE,
assessment of, 78, 535.

RACKRENT,
definition of, in Poor Law Acts, 501.

RAGGED SCHOOL. *See* SUNDAY-SCHOOL.

RAILWAY,
rateability of, 65.
principles of assessment, 65.
may be rated as a right of way, 103.
basis of valuation is gross revenue subject to deductions, 66.
deductions, 67.
expenses of repairs, 67.
service, 67.
tenant's profits, 67.
stations, 67, 70.
income tax, 68.
interest on cost of forming company, 68.
on working plant, 68.
repair of permanent way and rolling stock, 68.
interest on capital, 69.
movable furniture, 69.
floating capital, 69.
stores, 69.
tolls paid for running powers, 73, 74.
not for depreciation of permanent way, 68.
not for rents received from other companies, 68.
not for trade profits, 69.
to be made on the parochial system, 70.
in different parishes, parochial system, 70.

RAILWAY—*continued.*
trunk line and branches, 70.
leased branch line, 73.
no profits in particular parish, 73.
existence of competing lines to be taken into account, 73.
terminal charges are part of gross earnings, 73.
tolls legalized, but not charged, not to be taken into account in valuation, 74.
rent fixed by Act of Parliament, lessee company not rateable at a greater sum than fixed rent, 74.
lines connected with docks and harbours, 74.
sleepers to be valued as an addition to the freehold, 75.
stations assessable at actual value, not at cost of construction, 75.
sidings, how assessed, 75.
what is a siding, 75.
partial exemption from rating, 76.
exclusive occupation of lines or premises let by company, 76.
running powers do not constitute occupation, 77.
bookstall at station, rateability of, 77.
refreshment room at station, 78.
liability to make good deficiency in rates by reason of taking lands, 78.

RATES. *See* POOR RATE.
deduction of tenant's to determine rateable value, 527.

RATE IN AID
to be made by justices for poor parish, 104.
how to be made, 105.
has practically ceased to exist, 104.

RATEABLE VALUE,
definition of, 528.
premises incapable of beneficial occupation have no, 528.
hypothetical tenant to be assumed, 529.
when two hypothetical tenants are to be assumed, 529.
rent paid not conclusive evidence of, 530.
property to be valued in its existing condition, 531.
deferred or reversionary prospects not to be taken into account, 531.
estimate to be made of rent payable on yearly tenancy, 531.
even where yearly tenancy is impossible, 531.
royalties to be taken into account in estimating rent, 532.
premiums representing capitalized rent to be taken into account, 532.
if comparison with other hereditaments impossible structural value may be considered to arrive at rental value, 533.

RATEABLE VALUE—*continued.*
trade profits not to be taken into account in estimating value, 534.
unless property is of such a kind that its value cannot be calculated by comparison with other property of a like kind, 534.
ability to carry on gainful trade to be taken into account, 535
where there are statutory restrictions on profits, 537.

RATE COLLECTOR,
authority of Local Government Board to order appointment of, 464.
may be summoned to assist at election of vestrymen, 406.

RATEPAYERS
liable to pay costs of proceedings for recovery of rates, 106.
with consent of majority of, Local Government Board may order workhouses to be built or enlarged, 444.
expenses, how raised, 446.
may raise money on security of rates to assist poor in emigrating, 477.
meeting of, for such purpose, 477.
now done by parish meeting, 477.
consent of majority of, to purchasing or disposing of a workhouse, 508.

RECEIVER
of rent may be rated as owner, 347.

RECEIVER OF METROPOLITAN POLICE,
appointment of, 380.
to be during pleasure, 380.
to pay salaries of Metropolitan Police, 381.
may sell police property, 383.
may purchase lands from corporations, &c., 383.
in case of disagreement, value to be fixed by jury, 383.
contracts by, 383.
property vested in, 383.
penalties to be paid to, 391.
money received by, to be paid into Bank of England, 381.
to draw out monies, 381.
drafts of, to be countersigned by police magistrate, 382.
police rate to be paid to, by overseers, 385.
audit of accounts of, 381.
successor may sue for balance of accounts due from, 382.
mode of procedure, 383.
against representative of deceased receiver, 383.
proof of official character of, 382.
disqualified from sitting in Parliament, 384.
or canvassing at elections, 384.
penalty on, for, 384.

RECOGNIZANCE
to be entered into by informer to prosecute disorderly house, 235.
to prosecute *certiorari* to remove justice's order, 207.
to be certified to High Court, 207.
to be entered into by party applying for *certiorari* to quash Local Government Board order, 499.
to prosecute appeal from special sessions against poor rate, 546.
within what time to be entered, 546.
may be entered into verbally, 546.

RECTOR
rateable for tithes, 86. *And see* CLERGYMAN.

REFORMATORIES,
rateability of, 38, 81.

REFRESHMENT ROOM
at railway station, assessment of, 535.

REFUSAL TO WORK
by able-bodied person becoming chargeable, penalty for, 309, 356.
must be evidence that work is obtainable, 358.

REGISTER
of births and deaths,
establishment of general office for, 514.
offices for, to be provided in each union, 517.
custody of, to be given to superintendent registrar, 517.
books to be provided for, 518.
heads of information to be registered, 518.
form of, 525, 526.
boxes for the custody of books to be provided by the Registrar-General, 518.
certified copies to be sent quarterly to superintendent registrar, 520.
books when filled to be sent to superintendent registrar, 521.
search of, 522.
fee for, 522.
certified copies of, to be given by registrar, 522.
penalty for giving false information for registration, 523.
of marriages,
establishment of general office for, 514.
to be kept by parish clergyman, 519.
to be made in duplicate, 520.
by whom to be signed, 520.
certified copies to be sent quarterly to superintendent registrar, 521.

REGISTER—*continued.*
of marriages—*continued.*
when filled, one copy of book of, to be deposited with superintendent registrar, the other to be kept in the parish, 521.
searches of, 522.
fee for, 522.
certified copies of, to be given by clergyman, 522.
correction of accidental errors in, 523.
penalty for giving false information for registration, 523.
of parliamentary voters,
no person to vote unless on, 422.
what length of possession or occupation necessary to entitle person to be placed on, 422.
when to date from, 424.
of religious creeds of inmates to be kept at workhouse, 442.
of persons in receipt of indoor or outdoor relief to be kept, 473.
of apprentices bound by overseers, 285.
evidence if indentures are lost, 286.
form of, 286.

REGISTRAR
of births and deaths, appointment of, 515.
approval of Local Government Board necessary, 516.
appointment exempt from stamp duty, 517.
how paid, 519.
to make out accounts of births and deaths quarterly, 519.
to send certified copies quarterly to superintendent registrar, 520.
and the books when filled, 521.
to permit searches, 522.
to give certified copies, 522.
fees payable to, 522.
on ceasing to hold office to transfer books to successor, 518.
mode of compelling delivery, 518.
penalty for giving false information to, 523.
penalty on, for not registering, or damaging register, 523.
of diocese, copies of apportionments, and agreements as to tithe to be deposited with, 513.

REGISTRAR-GENERAL
of births, marriages, and deaths, appointment, 514.
staff of, 515.
salary of, 515.
duties of, regulated by Secretary of State, 515.

REGISTRAR-GENERAL—*continued.*
to provide boxes for the custody of register books, 518.
books for keeping the register, 518.
marriage registers to clergymen, 519.
certified copies to be sent to, by superintendent registrars, 522.
to send annually to Parliament through Secretary of State an abstract of the number of births, deaths, and marriages registered, 515.

REGULATIONS,
definition of, in Poor Law Acts, 501.
And see ORDERS.

RELATIONS
of poor, what may be charged for maintenance, 113.

RELIEF OF THE POOR,
who are entitled to relief, 11.
method of giving, 13.
only to be given by vestry or guardians, 11, 472.
except in case of emergency, 11, 472.
to be administered by guardians, 457.
justices may order, in case of medical necessity or improper food in workhouses, 252.
in case of sudden and urgent necessity, justices may order if overseers refuse, 472.
medical, may be ordered by justices, 473.
to be given by overseers, 472.
not to be given by money, 472.
to be under the control of Local Government Board, 439.
powers of, to make, suspend, and alter rules, 439.
rules of, may be departed from in case of emergency, 471.
quarter sessions cannot order, 12.
receipt of, to disqualify recipient from franchise, 428.
what considered as for franchise purposes, 429.
whether excusal from payment of rates amounts to, 305.
medical, does not, 429.
of impotent poor, 1.
outdoor, may be granted to, by justices, 448.
guardians must be summoned to show cause against, 448.
by parents may be ordered by petty sessions, 350.
medical relief of, not to disqualify for franchise purposes, 429.
of able-bodied poor, 11.
outdoor, to be regulated by Local Government Board, 470
given contrary to regulations unlawful, 471.
relief given to, may be considered as a loan, 475.
wages of, may be attached in payment for, 475.
proceedings for recovery of cost of, 475.

RELIEF OF THE POOR—*continued.*
casual poor must be relieved, and not removed, 140.
person applying for, deemed to be actually chargeable, 265.
may be given to discharged prisoner to assist him on his way to place of settlement, 365.
given to wife or children deemed given to husband or father, 114, 265, 473.
given to children of widow deemed given to mother, 265.
given to illegitimate child deemed given to mother, 482.
persons absconding and leaving family chargeable to be prosecuted, 359.
contracts relating to, invalid unless conformable to rules of or sanctioned by Local Government Board, 468.
overseers may supply goods, &c., for purposes of, 482.
goods supplied for, to be marked by overseers, 308.
penalty for defacing, 308.
marks on, to be evidence of ownership, 308.
to be vested in overseers, 307, 373.
indictment for stealing, 307, 373.
lands may be hired, taken, or enclosed for setting poor to work, 341, 400.
wages to be paid for work, 341.
what amount of land may be so taken, 341, 400.
guardians, with consent of Local Government Board, may hire land or buildings temporarily for, 445.
powers of sale and exchange of lands so taken to be vested in guardians, 343.
powers over lands to be exercised by guardians or overseers subject to rules of Local Government Board, 509.
whether conveyance of land is affected by the statute of mortmain, 345.
buildings, &c., to be conveyed to overseers, 342.
house provided for, exempt from tax, 287.
accounts of estates held in trust for, may be called for by Local Government Board, 490.
cost of, to be paid by union to which a pauper is adjudged to belong, 489.
unless under a suspended order of removal of which notice has not been given, 489.
cost of, under suspended order cannot be recovered *ex parte*, 490.
cost of, ordered by justices to be paid out of poor rate, 252.
penalty for obtaining by false statement, 357.
for person concerned in contracting for supply of goods for purpose of, 469.
for paying in other than lawful money, 242.
application of penalty, 242.

RELIEVING OFFICER
cannot be assistant overseer, 337.
unless authorized by Local Government Board, 337.
liability of, 12.
may not contract to supply goods for use of the poor, 312.
dismissal of, by Local Government Board, 467.

REMAINDER
confers settlement by estate, 128.

REMOVAL OF THE POOR,
origin of law of, 122.
who may be removed, 139.
persons actually chargeable, 139, 265.
who so deemed, 265.
persons convicted of felony, 272.
evidence of chargeability, 266.
when not necessary to prove chargeability, 266.
vagrants, rogues, and vagabonds deemed chargeable, 273.
no person to be removed till twenty-one days after notice of chargeability has been given, 483.
grounds of removal to be stated in notice of chargeability, 483.
sick persons not to be, till out of danger, 267.
charges of, who to be paid by, 267.
distress for, 267.
of woman from lying-in hospital, 245.
charges of, who to be paid by, 245.
distress for, 245.
child under seven years not to be removed from parent, 139.
order of,
who obtained by, 266.
may be obtained by guardians, 140.
guardians by consent may remove without, 483.
on whose complaint to be made, 148.
complaint need not be in writing, 149.
by whom made, 147.
cannot be, in quarter sessions, 147.
must state the complaint, 149.
discretion of justices as to, 148.
disqualification of justices making, 148.
to be signed and sealed by justices, 150.
jurisdiction of justices to make must be shown, 147.
to whom directed, 149.
when obtained by guardians to be sent to guardians of parish chargeable, 483.
notice of chargeability and grounds of removal to be served on guardians, 152.

REMOVAL OF THE POOR—*continued.*
order of—*continued.*
what the order must adjudicate, 150.
must adjudicate settlement, 150.
and truth of complaint, 150.
words of, must follow those of 35 Geo. III. c. 101, not those of 13 & 14 Car. II. c. 12.
description of person removed must be inserted in, 149.
inhabitation and chargeability to be stated in, 150.
abandonment of, 152.
does not prevent pauper returning if he does not return as a vagrant, 358.
unappealed against conclusive evidence of settlement between parties, 144.
appealed against and confirmed conclusive evidence against other parties, 145.
appealed against and quashed conclusive between parties if decided on the merits, 146.
confirmed only on account of default of appellants, how far conclusive, 145.
suspension of, 152.
in case of sick person, 267.
charges, by whom paid, 267.
distress for, 267.
recovery of, 268.
notice of order to be sent to parish of settlement, 268.
when to be made, 268.
formalities of, 268.
service of order, 269.
no settlement gained by residence during, 270.
order for charges under, cannot be made *ex parte*, 271.
charges under, by whom paid, 270, 489.
cannot be recovered *ex parte*, 270, 489.
subsequent permission to remove, by whom given, 293.
if suspended on ground of sickness, whole family affected thereby, 294.
the removal,
how effected, 82
time of, 153.
to what place, 153.
not to take place till twenty-one days after service of notice, 152, 153.
nor pending appeal, 483.
by guardians, 304.
overseers may employ persons to remove paupers, 304.

REMOVAL OF THE POOR—*continued.*
the removal—*continued.*
what is sufficient delivery, 305.
delivery of warrant to overseers equivalent to delivery of pauper, 182.
who to receive paupers, 154.
notices as to, by guardians may be signed by the clerk, 483.
examination as to settlement,
appellant union may hold, 484.
to be taken before two justices, 141.
evidence, how taken, 141.
what is, 142.
if pauper too ill or infirm one justice may examine privately, 148, 294.
appeal,
where to be brought, 155, 190.
may be brought to borough quarter sessions, 190.
pauper may bring, 150.
individual parishioner may not, 150.
notice of, when to be given, 155, 201.
practice as to, 201, 202.
grounds of, must be sent within fourteen days of hearing, 201, 486.
when appeal is adjourned, 486.
by whom to be given, 202.
notice may be given by attorney for parish officers, 204.
service of, 204.
to be served on clerk of guardians, 201.
of grounds of, to be given by appellants, 155, 484.
on hearing appellants bound by their notice, 485.
requisites of notice of grounds, 485.
how time for appealing computed when order suspended, 293.
omission to send notice of chargeability not a good ground of, 484.
whether case can be stated for High Court on hearing of, 157.
sessions can only quash or confirm order, 156.
order may be altered during sessions, 156.
finality of judgment, 157.
when reviewable by *certiorari* or *mandamus*, 157.
when justices are equally divided, 156.
justices need give no reason for, 156.
costs of, 155, 188.
may be awarded to successful appellant, 204, 488.

RENT
criterion of annual value of tenement for purposes of settlement, 397.
payment of, by person living in tenement, 397.
actual, paid not conclusive evidence of annual value, 530.
in estimating, premiums and royalties representing capitalized to be taken into account, 532.

REPLEVIN
of distress for poor rate, 225.

RESIDENCE,
meaning of, for purpose of settlement, 124.

RETURNING OFFICER,
definition of, for electoral purposes, 432.
penalty on, for breach of duty, 431.
for election of guardians, Local Government Board to make rules for appointment of, 465.

REVERSION
confers settlement by estate, 128.

RIGHT OF WAY
not rateable *per se*, 103.
if enjoyed with occupation of land, then rateable, 103.

RIVERS. *See* NAVIGABLE RIVERS.

ROGUES AND VAGABONDS,
who deemed, 358.
penalty on conviction, 359.
any person may arrest, 360.
may be searched, and all money found on, applied towards expenses of prosecution, 361.
who deemed incorrigible, 360.
punishment of, 360.
persons to be bound over to prosecute, 362.
expenses to be allowed to, 362.
lodging-houses suspected of concealing may be searched, 364.
person convicted as deemed chargeable to parish of residence, 365.
not necessary to show relief has actually been given, 366.

ROYALTIES
to be taken into account in estimating rent, 532.
mine owner not liable to be rated for, 64.
unless paid in raw ore, 64.

RUNNING POWERS,
tolls paid for, to be deducted in estimating profits of railway company, 73.
do not constitute occupation, 77.

RURAL PARISH,
appointment of overseers in, 4.
churchwardens no longer *ex officio* overseers in, 229.
appointment of assistant overseer in, 334.
property of, vested in parish council or meeting, 373.

S.

ST. ALBANS,
settlement appeals in the liberty of, 191.

SALVATION ARMY,
barracks of, whether rateable, 436.

SCAVENGER RATE,
payment of, does not confer settlement, 200.

SCHOOL,
rating of, 38.
board, 27.
national, 81.
industrial, 81.
charity, 82.
reformatory, 81.
voluntary, 29, 81.
Sunday and ragged, 29, 81.
to assess rateable value of, school board may be considered as hypothetical tenants of, 529.
master of, exempt from serving as overseer, 300.
or in the militia, 300.
powers of managers of, with regard to purchasing or disposing of, 506.
fees paid by guardians may be considered as a loan to the parent, 475.

SCHOOL BOARD
rateable for school premises, 82.
to be considered as hypothetical tenant of board school, 82, 529.

SCHOOLMASTER
exempt from serving as overseer or in militia, 300.

SCIENTIFIC AND LITERARY INSTITUTIONS,
exemption of, from poor rate, 82.

SEARCHES
of registers of births, marriages, and deaths, 522.
fee for, 522.

SECRETARY OF STATE,
quarterly report of all special cases of outdoor relief to be laid before, 471.
to appoint metropolitan magistrates, 378.

SECRETARY OF STATE—*continued.*
to approve regulations for management of metropolitan police, 378.
to regulate salaries, rewards, &c., of metropolitan police, 381.
to appoint auditor of accounts of receiver of metropolitan police, 381.
to regulate the duties of the office of Registrar-General, 515.
for War, lands vested in, partially exempt from poor rate, 29.

SECURITY
to be given by parish officers, 464.
regulations as to, 465.
to be given by assistant overseer, 338.
whether to be given by assistant overseer appointed under Local Government Act, 1894, 338.
to whom to be given by, 334.
how affected by reduction of salary of, 339.
how sureties for, are discharged, 339, 340.
form of transfer of, 512.
instruments given as, under Local Government Board rules are exempt from stamp duty, 491.

SERVANT
in occupation of premises, when not rateable, 17, 18.

SERVICE,
abolition of settlement by, 478.

SETTLEMENT OF THE POOR,
origin of law of, 122.
repeal of all local Acts conferring, 302.
original settlements,
by estate,
origin of, 123.
what estate, 125.
freehold or copyhold, 125.
tenant *pur autre vie*, 126.
must be legal or equitable, 126.
right of common, whether it confers, 126.
annuity charged on land, whether it confers, 127.
tenant in dower, 127.
estate tail or for life, 127.
joint or in common, 127.
in remainder or reversion, does not confer, 128.
by descent, 128.
by devise, 128.
of trustees and *cestui que* trust, 128.
mortgagor or mortgagee in possession, 129.
guardian in socage or appointed by parent, 129.
executors or administrators, 129.

SETTLEMENT OF THE POOR—*continued.*
original settlements—*continued.*
by estate—*continued.*
sole next of kin, 130.
by marriage, 130.
under Married Women's Property Act, 1882...130.
husband of executrix or administratrix, 130.
husband may gain settlement by estate of wife which would not confer settlement on wife if unmarried, 130.
where title is disputable, 131.
residence necessary to gain settlement by estate, 131.
to retain, 132, 195.
must reside within ten miles, 480.
effect of fraud in the purchase, 132.
by purchase, 131.
consideration must be wholly in money, 197.
must be such as would convey settlement prior to 9 Geo. I. c. 7...197.
devise is no, 197.
conveyance on mortgage is, 197.
price must be at least 30*l.*, 197.
what sums included in the consideration, 198.
evidence to show, 199.
by birth,
origin of, 123.
place of birth *primâ facie* place of settlement of both legitimate and illegitimate children, 132, 133, 482.
legitimacy, how proved, 133.
illegitimacy, how proved, 135.
no length of residence required, 133.
none gained if born in prison or lying-in hospital, 134, 245, 302.
bastard born in, acquires mother's settlement, 245.
child born in workhouse deemed settled in parish on whose account the mother was received, 134, 302.
illegitimate child whose mother has settlement does not revert to that of birth at age of sixteen, 135.
children of widow do not acquire that of a second husband, 474.
by renting a tenement,
origin of, 122.
meaning attached to tenement, 124.
conditions for acquiring, 125, 171.
must be of 10*l.* yearly value, *bonâ fide* hired for at least one year, 171, 372.
actual occupation and payment of rent necessary, 394.

SETTLEMENT OF THE POOR—*continued.*
original settlements—*continued.*
by renting a tenement—*continued.*
value of tenement, how reckoned, 125.
rent is the criterion, without proving actual, 397.
must be paid by hirer, 397.
what is a sufficient hiring, 395.
and occupation and residence, 124, 395.
assessment to and payment of poor rate is necessary, 171, 479.
where landlord pays the rates, 479.
in case of joint tenants, 479.
renting tolls does not confer, 355.
renting land taken for relief purposes does not confer, 401.
not gained by renting allotment of Crown land, 402.
by residence
in charitable institution does not confer, 303.
nor in tollhouse, 303, 305.
where a workhouse is to be considered as situated for purposes of, 303.
if building is hired in adjoining parish, workhouse to be deemed situate in hiring parish, 341.
by payment of rates, 123.
ratepayer deemed settled in the parish he is rated in, 171.
what occupation is necessary, 171, 172.
tenement rated must be worth 10*l.* yearly, 171, 272, 372.
rating and payment are both necessary, 172.
payment of any one distinct rate is necessary, 173.
proofs of rating and payment, 173.
what are parochial rates and taxes, 173.
scavengers' rate does not confer, 200.
nor does highway rate, 200.
tenant's name need not appear in rate-book, 172.
by apprenticeship, 123.
not gained by, to sea service, 174, 479.
the indenture, 174.
binding must be in writing, not necessarily under seal, 174, 241.
need not be indented, 174.
cannot be gained by inhabitation under parol binding, 174, 241.
under voidable and void indentures, 174.
execution of, 175.
when apprentice an infant, 175.
parties to, 174.
master need not exercise a trade, 175.

SETTLEMENT OF THE POOR—*continued.*
original settlements—*continued.*
by apprenticeship—*continued.*
the indenture—*continued.*
whether stamp is needed, 175.
statement of premium in, 176.
inhabitation, meaning of, 177.
forty days is necessary, 177.
need not be continuous, 177.
need not be in parish where bound, 177, 178.
if in separate parish from master must be in connection with the employment, 178.
if in more than one parish settlement is gained where the last night is passed, 178.
while serving under an assignment, 178.
serving another with master's consent, 179.
what consent is necessary, 179.
after master's death or bankruptcy, 180.
justice's consent is necessary to parish apprentice serving another, 180.
none gained unless provisions of 56 Geo. III. c.139 are complied with, 316.
by serving an office, abolition of, 171.
by hiring and service, abolition of, 174, 478.
derivative settlements,
by marriage, 123.
origin of, 123.
proof of marriage, 138.
wife takes that of husband, 124, 136.
even if husband's is derivative, 136.
wife cannot acquire original during marriage, 136.
does not revert to maiden on husband's death, 137.
if husband has no settlement wife retains maiden, 137.
where husband's is unknown, 137.
woman described as wife in unappealed order of removal is conclusive proof of marriage, 138.
by parentage, 123.
origin of, 123.
how now determined, 139.
children take that of father, 124.
age of emancipation, 139.
nurture, 139.
illegitimate child takes and retains that of mother, 481.
examination, as to, to obtain removal order, 143.
infirm pauper may be examined by one justice, 294.
prisoner may be examined by one justice as to, 351.
guardians of appealing union may examine pauper as to, 484.

SETTLEMENT OF THE POOR—*continued.*
on appeal against adjudication of costs to be awarded, 187.
recovery of, by distress, 187.
evidence of, 142.
admission of, by relief, how proved, 142.
if given under mistake of law not evidence, 142.
giving money to pauper to return to particular place not evidence, 143.
relief given by relieving officer of union not evidence of, in particular parish, 143.
order of removal unappealed against is conclusive, 144.
made against parents does not affect emancipated children, 144.
appealed against and confirmed is conclusive against every one, 145.
of parents confirmed on appeal conclusive as to children, 145.
confirmed on account of appellant's default, how far conclusive, 145.
appealed against and quashed conclusive, if decided on the merits, 146.
guardians may agree to treat union as one parish for purposes of, 454.
effect of such agreement, 454.

SEWAGE FARM,
to assess rateable value of, corporations, &c., to be considered as hypothetical tenants, 530.

SEWERS,
sewage farm and works rateable, 84.
underground, not rateable, 82.
overground, whether rateable, 83.
outfall, rateability of, 83.
local authority to be considered hypothetical tenant of, 83.

SIDINGS,
rateability of railway, 75.

SPECIAL SESSIONS
for appointment of overseers, 10.
audit of overseers' accounts in, 216, 296.
repeal of justices' powers of audit in, 217.
to be held in September for revision of jury lists, 369.
notice of, when to be given, 369.
adjournment of, 369.
appeals to, against poor rate, 219.
powers of justices on, 277.
to be held four times a year for, 544.

SPECIAL SESSIONS—*continued.*
appeals to, against poor rate—*continued.*
notice of, how given, 545.
appeal from, to quarter sessions, 545.

SPIRITS,
no action for debt for, if under 20*s.*, 224.
penalty on retailer taking pledge for debt for, 230.
half penalty to go to poor, 230.
for retailing or introducing, into workhouses or prisons, 230, 231, 492.
pauper introducing, to be taken before justices, 232.
on master of workhouse for, 493.
for not exhibiting copies of the Acts relating to, in workhouses and prisons, 232, 494.

SPORTING RIGHTS,
rateability of, 81.

STAMPS,
instruments, agreements, and contracts, &c., under Local Government Board exempt from duty, 491.
appointment of registrars of births exempt from duty, 517.

STATIONS,
railway, rateability of, 75.

STIPENDIARY MAGISTRATES,
orders of removal may be made by, 147.

STRIKE,
able-bodied poor on, not to be relieved, 11.
whether to be considered in fixing valuation of mill, 61.

SUCCESSIVE OCCUPIERS
liable to be rated proportionately to their occupation, 18.

SUMMONS
authorized by Local Government Board, how served, 492.

SUNDAY-SCHOOL
not rateable, 81.
church or chapel used as does not become rateable, 436.

SUPERINTENDENT REGISTRAR,
appointment of, 516.
approval of Local Government Board to, 516.
exempt from stamp duty, 517.
for parishes not in unions, 517.
registrars to deliver to, quarterly copies of register of births and deaths, 520.
and register books when full, 521.
certified copies to be verified to, 521.

SUPERINTENDENT REGISTRAR—*continued.*
to send certified copies quarterly of births, &c., to Registrar-General, 521.
payment of, for certified copies so forwarded, 521.
on ceasing to hold office to transfer books to successor, 518.
mode of compelling delivery, 518.

SURETY
for union officer not discharged by proceedings against principal, 467.

SURVEYOR
may enter and examine lands for purpose of making valuation list, 543.
payment of, by guardians, 543.
of highways, material for repairs of, to be laid in on indictment, 373.

SYNAGOGUES,
secretary of, to be supplied with marriage registers, 520.

T.

TAXES,
deduction of tenant's to determine rateable value, 527.
assessment of, may be inspected by overseers for purpose of compiling jury lists, 370.

TEACHER
exempt from serving as overseer, 300.

TELEGRAPH,
occupation by posts, 84.
must have exclusive occupation of wires to be rateable, 85.
premises of company, rateability of, 84.

TENANT,
deduction of rates and taxes of, to determine rateable value, 527.

TENANTS IN COMMON
gain settlement by estate, 127.

TENEMENT,
acquisition of settlement by renting, 122, 171.
meaning of, for purposes of settlement, 95, 124.
not to be erected on parish allotments, 418.
tithe considered as, 86.

TERMINAL CHARGES,
how to be treated in fixing rateable value of railway, 73.

THEATRES,
exemption of, from the Licensing Act, 234.

TITHES,
rateability of, 85.
treated as tenements, 86.
allotments or rent in lieu of rateable, 86.
"rector's rate," whether rateable as, 87.
not extinguished, but transferred, who rateable for, 88.
mode of assessment, 88.
what deductions allowed, 88.
curate's salary not, 89.
loan from Queen Anne's Bounty not, 89.
commutation rent-charge may be, 538.
apportionment of, copies to be deposited with registrar of diocese, incumbent, and churchwardens, 513.
inspection of, by interested parties, 513.
agreements giving land in lieu of, copies to be deposited with registrar of diocese, incumbent, and churchwardens, 513.
inspection of, by interested parties, 513.
recitals in confirmed agreements of, evidence of the matters therein recited, 513.
TITHE COMMISSIONERS,
powers of, now vested in Board of Agriculture, 513.
TITHE RENT-CHARGE
payable instead of tithe rateable, 514.
owner of, liable for poor rate, 514.
TITLE *And see* TITHES.
of poor rate to state period for which it is made, 540.
TOLLHOUSE,
residence in, confers no settlement, 303, 355.
TOLLS,
rateability of, 90.
not rateable *per se*, 90.
occupier of land enhanced by, rateable, 90.
tollhouse rateable, 91.
of canal, whether rateable, 91.
of bridge, abolition of, effect on rateability, 92.
of turnpike not rateable, 93.
of ferry, 93.
of lighthouses not rateable, 94.
of harbour, 95.
of anchorage and beaconage, 95.
of market, 95.
of stall and lairage, 96.
legalized, but not charged, not to be taken into account in valuation of railway, 74.
paid by railway for running powers to be deducted, 73.
no settlement gained by renting, 355.

TOWN COUNCIL,
assistant overseer appointed by, whether to take security, 338.

TOWNSHIP,
what constitutes a, 166.
definition of, for electoral purposes, 432.
overseers may be appointed for, 8, 165.
poor rate to be levied in, 167.
Vestries Act to apply in the same way as to parishes, 330.

TRADE PROFITS
not to be included in estimating rateable value, 534.
unless property is of such a nature that its value cannot be ascertained by comparison, 534.
ability to carry on trade on premises which may produce profits to be taken into consideration, 535.
evidence of, not in general admissible on appeal, 535.

TRAMWAYS,
rateability of, 96.
mode of assessment, 97.

TREASURER
of county to reimburse overseers' expenses of burial of drowned persons, 289.
of union, accounts of, to be audited quarterly, 465.
form of order for payment by guardians upon, 466.
liability of, 466, 500.

TREASURY
to consent to enclosure of Crown lands, 402.

TRUSTEE,
settlement of, by estate, 128.
right to vote only if in actual receipt of rents, &c., 421.
of lands for charitable uses may convey lands for a workhouse, 503.

TURNPIKE
tollkeeper gains no settlement by residence in tollhouse, 303.
not rateable in respect of tolls, 93.

U.

UNION,
definition of, in Poor Law Acts, 502.
establishment of, 447.
classification of poor in workhouse of, 448.
guardians may agree to treat, as one parish for rating purposes, 455.
contributions of parishes then to cease, 455.
assessment of united parishes in, 455.

UNION—*continued.*
guardians may consent to treat, as one parish for settlement purposes, 455.
Local Government Board may dissolve, with consent of two-thirds of guardians, 452.
inquiry to be held, 452.
may be divided for outdoor relief only, 452.
rules of Local Government Board affecting more than one, deemed to be general rules, 461.
on formation of, parishes to contribute to purchase of workhouse in proportion to average expenditure on relief of the previous three years, 449.
common fund of, how parishes are to contribute, 450.
register office to be established in, 517.
division into districts for registration of births, deaths, and marriages, 516.
to which pauper adjudged to belong to pay costs of relief, 489.
losing appeal against removal order to pay costs, 488.
recovery of, 488.
accounts of, to be audited quarterly, 465.
by whom audited, 465.
officer of,
definition of, 501.
may be summarily removed by Local Government Board, 467.
no person to be, who has been convicted of felony, fraud, or perjury, 467.
penalty on, for disobeying justices or guardians, 494.
for furnishing goods for his own profit for relief purposes, 482.
for purloining goods, 494.

UNION ASSESSMENT COMMITTEE
to alter valuation list if appeal against rate is successful, 277.
may order new valuation list, 542.
notice of objection against valuation list to be given to, 544.

UNITED WORKHOUSE,
meaning of, in Poor Law Acts, 502.

UNIVERSITIES,
rateability of, 97.

URBAN DISTRICT,
appointment of overseers in, 4, 116.
council of, may appoint assistant overseer, 334.
may be authorized by Local Government Board to appoint overseers, 333.

V.

VACCINATION
by public vaccinator not to be deemed parochial relief, 429.

VAGABONDS. *See* ROGUES AND.

VAGRANCY,
penalties for, 356.
person refusing to work and becoming chargeable to be imprisoned, 356.
any person may apprehend offender, 360.
offenders may be searched, 361.
persons convicted of, to be deemed actually chargeable to parish of residence, 365.
not necessary to show that relief has been actually given, 366.
appeal to quarter sessions against conviction for, 364.

VALUATION LIST
to be altered if appeal against rate is successful, 277.
new, may be ordered by union assessment committee, 542.
how regulated in metropolis, 542.
Local Government Board may order new, for union or parish on representation of guardians, 542.

VALUE,
definition of net annual, 527.
rateable, 528.
gross, 528.
of brickfield, 62.
manufactory and machinery, 59, 60.
mines, 62.

VESTRY,
meaning of, in Poor Law Acts, 502.
public notice of meeting to be given, 323.
special purpose of meeting must be stated in, 324.
meaning of "three days at least," 324.
liberal construction to be placed on, 324.
how given where no church, 330.
incumbent of parish has *ex officio* right to preside, 325.
absence of, does not invalidate meeting, 325.
if incumbent absent chairman to be elected at meeting, 325.
chairman has a casting vote, 325.
minutes to be kept and signed by, 325.
select, every member of, must be summoned, 323.
majority of, must be present, 324.
the only authority except guardians to give relief, 472.
metropolitan, abolition of, 323, 331.
provisions as to, in relation to parishes to extend to townships, 330.

VESTRY—*continued.*
acts of, not binding on subsequent vestries, 324.
inhabitants in, cannot appoint rate collector, only assistant overseer, 335.
to fix salary of assistant overseer, 333.
may require security from, 338.
may consent to overseers hiring land for relief purposes, 341.
may consent to overseers letting parish lands for relief purposes, 342.
may resolve to rate owners instead of occupiers in certain cases, 346.
books of, how to be kept, 328, 329.
penalty for detaining or destroying, 329.
recovery and application of, 329.
inspection of, by ratepayers, 329.
meeting of,
method of voting at, 326.
on show of hands each inhabitant has only one vote, 326.
voting by ballot at, illegal, 328.
inhabitants have from one to six votes according to rateable value of their property, 325.
inhabitants coming into parish since last rate may vote at, 328.
persons rated, though not inhabitants, may vote at, 326.
owner paying rates instead of occupier may not vote at, 326.
but occupier may, 326.
owner rated in respect of small tenements under 32 & 33 Vict. c. 41 has no right to attend, 352.
owner liable for rates may attend, 347.
corporations may vote at, by clerk or secretary, 353.
executors may vote at, 326.
person entitled to vote in two capacities must combine his qualifications, 326.
non-payment of poor rate to disqualify from voting at, 353.
chairman has power to adjourn meeting to take a poll, 325.
adjourned meeting part of original meeting, 324.
poll may be demanded and must be granted, 327.
when to be demanded, 327.
all qualified inhabitants may vote at, 327.
formalities of, 327, 328.
to be taken immediately in absence of other business, 327.
chairman to decide on validity of votes, 327.

VESTRY—*continued.*
under Vestries Act, 1831,
adoption of, by inhabitants, 403.
mode of procedure, 403—405.
effect of, 406.
number to consist of, 408.
same power as former vestry, 410.
quorum, 410.
acts of majority to be binding, 410.
meetings of, where held, 410.
if incumbent is absent, chairman to be elected, 411.
minute book to be kept, 411.
inspection of, by ratepayers, 411.
penalty for refusing, 411.
audit of accounts of, 412.
books to be produced to auditors, 412.
refusal to produce, a misdemeanour, 413.
to publish yearly a list of parish lands and charities, 413.
in enclosed parishes inhabitants may let allotments to industrious cottagers, 415.
powers of, in respect to allotments transferred to parish councils in rural parishes, 415.
to receive applications for allotments annually, 416.
rules for guidance of, to be made by Local Government Board, 440.
inspectors of Local Government Board have right to attend, but not to vote at, 443.

VESTRY CLERK,
minute book to be kept by, 325.
jury lists to be prepared by, 368.
audit of parish accounts to take place before, 412.
to sign accounts when audited, 413.
to publish abstract of parish accounts after audit, 413.

VESTRYMEN,
election of,
when and where to take place, 408.
notice of, to be given, 406.
form of, 406.
who may vote at, 406.
who to conduct, 406.
poll may be demanded, 407.
to be taken by ballot, 407.
how conducted, 407.
where votes are equal, 407.
penalty for misconduct at, 407.

VESTRYMEN—*continued.*
election of—*continued.*
list of elected, to be sent to churchwardens, 408.
penalty for making incorrect return, 408.
number to be elected, 408.
to retire after three years, 409.
eligible for re-election, 409.
qualification for, 409.
must be resident householder, 409.
must be rated for house of at least 10*l.* yearly value, 409.

VICAR
rateable for his tithes, 86.
And see CLERGYMAN.

VILLAGE,
what constitutes a, 166.

VISITORS OF WORKHOUSES,
appointment of, 462.

VOLUNTARY SCHOOL,
rateability of, 81.

W.

WAGES,
workman becoming chargeable, overseers may recover any, not paid in cash, 399.

WAREHOUSE,
stopped manufactory considered as, 60.

WATERWORKS,
general rateability of, 97.
rateable in each parish through which pipes run, 98.
where works in different parishes, 99.
licence to lay pipes not rateable, 98.
where profits prohibited or restricted, 100.
when subsidized by rates, 101.
where works in excess of existing requirements, 101.
deductions allowed in, 102.
rateability of reservoirs, 103.

WAY,
right of, not rateable *per se*, 103.
unless enjoyed with occupation of land, 103.

WESTMINSTER,
exemption of Dean and Chapter of Westminster from provisions of 13 & 14 Car. II. c. 12.

WIDOW,
relief given to children of, considered as given to, 474.
on remarriage of, children do not gain settlement of second husband, 474.

WIFE,
relief given to, considered as given to husband, 114, 473.
husband deserting deemed rogue and vagabond, 359.
wife must become actually chargeable, 359.
refusal to maintain, penalty, 357.
must be wilful, 357.
husband not bound to maintain wife guilty of adultery, 357.
illegitimate children of, liability of husband to maintain, 114.
children of, born before marriage, husband bound to maintain, 475.
may prove or disprove marriage, 139.
cannot prove non-access of husband, 135.
if received into the workhouse above the age of sixty, not to be separated from her husband, 461.
settlement of, 123.
acquires that of husband, 136.
cannot acquire original during marriage, 136.
unless deserted, 136.
if husband has none, retains her maiden, 137.
does not revert to maiden on death of husband, 137.
woman described as, in unappealed removal order, conclusive proof for purposes of, 139.

WITNESS,
attendance of, at local government inquiry, 439.
expenses of, 439.
penalty for giving false, or refusing to give evidence, 439.

WOMAN
may be overseer, 6.
delivered of a bastard in lying-in hospital, notice to be given to overseers before discharge, 247.
examination of, as to settlement, 248.
may be detained in hospital six weeks, 248.
admission of, into lying-in hospital, 247.
examination of, as to whether married or single, 247.

WOODS,
rateability of, 78.

WORKHOUSES,
acquisition of,
purchase of lands for, by guardians, 111.
guardians may temporarily hire building for, 111.
may sell or exchange, 111.

WORKHOUSES—*continued.*
acquisition of—*continued.*
building in adjoining parish may be purchased or hired for, 341.
for settlement purposes to be deemed situated in parish for which it was hired, 341.
powers of building and borrowing money for, to be controlled by Local Government Board, 443.
Local Government Board may, with consent of majority of guardians or ratepayers, order building or enlargement of, 445.
expenses of, how raised, 446.
may, by order under seal, require alteration or enlargement of, 447.
expenses of, how raised, 448.
on formation of union, to be purchased by contributions from parishes, 449.
who may convey property for purpose of building, 503.
land conveyed for purpose of erecting, whether affected by statute of mortmain, 504.
to be within jurisdiction of the borough to which it belongs though situate outside boundaries, 463.
government of,
to be governed by guardians, 457.
no rules to be made for, without sanction of Local Government Board, 444.
Local Government Board may make and vary rules for, 440, 461.
justices may visit to examine condition of inmates, 250.
to certify complaints to quarter sessions, 251.
may visit places not being, where poor are lodged by guardians, 252.
guardians may appoint visiting committee for, 251.
justices may visit to see if rules are adhered to, 251.
appointment of paid visitors for, 462.
master of,
restriction of powers of, as to punishment, 304.
penalty on, for ill-treating paupers, 493.
chaining of sane paupers in, unlawful, 314.
may be summarily dismissed by Local Government Board, 467.
to keep register of inmates, 473.
cannot be assistant overseer, 337.
cannot contract to supply goods for relief purposes, 312.
penalty on, for purloining goods, 495.
is rateable, 38.
meaning of "united workhouse" in Poor Law Acts, 502.

WORKHOUSES—*continued.*
to be for common use of the union, 448.
may be proper place for custody of parish books, 330.
husband and wife received into, above the age of sixty not to be separated, 461.
register of religious creeds of inmates to be kept, 442.
inmate not to be forced to attend any particular religious service, 441.
children in, not to be educated contrary to parents' belief, 442.
chaplain of, removable summarily by Local Government Board, 467.
penalty for introducing spirits into, 231, 492.
on master for introducing spirits into, 493.
provisions of Acts relating to spirits to be exhibited in, 232, 494.
penalty for not so doing, 494.
child born in, takes settlement in parish on whose account mother received, 134, 302.
where considered situated for purposes of settlement and removal, 303.
misconduct in, penalty, 309.
absconding from, with parish property, penalty, 309.
in indictment for burglary into, may be described as dwelling-house of guardians, 510.

WORKMAN,
definition of, in Employers and Workmen's Act, 399.

THE END OF VOLUME I.

BRADBURY AGNEW, & CO. LTD., PRINTERS, LONDON AND TONBRIDGE.

SHORT LIST

OF

Recent Legal Publications

ISSUED BY

SHAW AND SONS,

FETTER LANE AND CRANE COURT, LONDON, E.C.

Lumley's Public Health.

Containing the Public Health Acts, and all Statutes in any way relating to or concerning the Duties and Liabilities of Sanitary Authorities. *Fifth Edition*, by ALEX. MACMORRAN, M.A., Q.C., and S. G. LUSHINGTON, M.A., B.C.L., of the Inner Temple, Barrister-at-Law. In 2 vols. Price £3 7*s*. 6*d*.; for Cash, with order, £2 15*s*. 3*d*., carriage free. 1896

Mackenzie's Poor Law Guardian.

Powers and Duties of Guardians in the right Execution of their Office, in particular as affected by the Local Government Act, 1894. *Fourth Edition*. By W. W. MACKENZIE, M.A., Barrister-at-Law. Price 7*s*. 6*d*.; for Cash, post free, 6*s*. 4*d*. 1895

The District Councillors' Handbook.

Being a Summary of his Powers and Duties in matters other than the Administration of Poor Law. By J. C. SWINBURNE-HANHAM, of the Middle Temple and Western Circuit, Barrister-at-Law. Price 5*s*.; for Cash, with order, 4*s*. 3*d*. 1896

The Law of Light Railways.

The Law of Light Railways, being a Treatise on the Light Railways Act, 1896, with the Statutes applicable thereto, with Introduction, Notes, Cases, and Full Index; also the Rules made by the Board of Trade, and the Standing Orders applicable, Annotated. By CYRIL DODD, one of Her Majesty's Counsel; and C. E. ALLAN, M.A., LL.B., of the Middle Temple, Barrister-at-Law. Price 12*s*. 6*d*.; for Cash, 10*s*. 5*d*. 1896

Allotments, The Law of.

Including the operative parts of the Local Government Act, 1894, and of the General Inclosure and Commons Acts, and all other Statutes relating to Allotments. *Second Edition*, by JAMES BROOKE LITTLE, B.A., of the Inner Temple, Barrister-at-Law, &c. Price 10*s*. 6*d*.; for Cash, with order, post free, 8*s*. 11*d*. 1895

SHAW & SONS, 6, 7, 8 & 9, Fetter Lane, E.C.
BUTTERWORTH & Co., 7, Fleet Street, E.C.

Local Government Act, 1894.

The Local Government Act, 1894, with an Introduction, copious Notes, Appendix, and Index; forming an Epitome of the law relating to Parish Councils and showing the alteration in the law relating to District Councils and Boards of Guardians. *Third Edition*, by ALEX. MACMORRAN, M.A., Q.C., one of the Editors of "Lumley's Public Health"; and T. R. COLQUHOUN DILL, B.A., of the Inner Temple, Barrister-at-Law. Price 15*s.*; for Cash, with order, 12*s.* 6*d.* 1896

Pratt's Law of Highways (14th Edition).

Pratt's Law of Highways, Main Roads, and Bridges. By J. TIDD PRATT, Q.C. *Fourteenth Edition*, thoroughly revised, by WILLIAM W. MACKENZIE, Esq., M.A., Barrister-at-Law. The first part consists of a Treatise on the Law of Highways, independent of Statute. In the second part, the Statutes relating to Highways are classified and fully Annotated. Price £2 2*s.*; for Cash, £1 14*s.* 6*d.* 1897

The Law of Compensation.

Being a Collection of the Public General Acts relating to Compulsory Purchase of and Interference with Land, with Notes of all the Cases thereon, and an Appendix of Reports, Forms, and of the Statutory Provisions specially applicable to London. By J. H. BALFOUR BROWNE, Q.C., of the Middle Temple, Esq., and CHARLES E. ALLAN, M.A., LL.B., of the Inner Temple, Esq., Barrister-at-Law. Price 27*s.* 6*d.*; for Cash, post free, 22*s.* 9*d.* 1896

Shaw's Parish Law.

Being a Guide to Parish Officers in the Execution of their Duties. With Tables of Statutes and Cases, Notes, Appendix, and Index. By J. F. ARCHBOLD, Esq, Barrister-at-Law, *Eighth Edition*, by J. THEODORE DODD, Esq., Barrister-at-Law. Price 15*s.*; for Cash, with order, post free, 12*s.* 6*d.* 1895

The Law of Burial.

The Law of Burial, including all the Burial Acts as modified or affected by the Local Government (England and Wales) Act, 1894, all the Church Building, New Parish, and Poor Law Acts relating to the subject; and the Official Regulations of the Home Office and Local Government Board, with Notes, Cases, and Index. *Second Edition*, by JAMES BROOKE LITTLE, B.A., Ch. Ch. Oxon., of the Inner Temple, Barrister-at-Law. Price 17*s.* 6*d.*; for Cash, post free, 14*s.* 6*d.* 1894

SHAW & SONS, 6, 7, 8 & 9, Fetter Lane, E.C.
BUTTERWORTH & Co., 7, Fleet Street, E.C.